

3/23/2015

CourtView Justice Solutions

CR 1983 12 0614

Case Type: CRIMINAL
Case Status: Closed
File Date: 12/22/1983
DCM Track:

Action: AGGRAVATED MURDER 2901.01 A
Status Date: 12/22/1983
Case Judge: CREHAN, Honorable MATTHEW
Next Event:

All Information | Party | Charge | Event | Docket | Additional Fields | Disposition | Financial

Docket Information

Date	Docket Text	Amount	Image Avail.
12/22/1983	HAMILTON MUNICIPAL COURT LOWER COURT FEES transcript bindover		Image
12/22/1983	JOURNAL ENTRY - NO BOND DOLLARS FILED	\$2.00	Image
12/22/1983	COST BILL	\$43.30	Image
12/22/1983	CLERKS COMPUTER FEE - \$10 FUND 111	\$10.00	
12/22/1983	TRANSCRIPT(S) FILED (duplicate sent to County Prosecutor)+ Special Project Fee \$75	\$60.00	
01/06/1984	NOTICE TO SUPREME COURT OF OHIO OF FILING OF INDICTMENT CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES (R.C. 2929.021(A)	\$0.00	Image
01/06/1984	SUMMONS ON INDICTMENT OR INFORMATION	\$60.00	Image
01/06/1984	copy of Indictment scanned & forwarded to case file folder		Image
01/06/1984	PROSECUTING ATTORNEY'S REQUEST FOR ISSUANCE OF SUMMONS UPON INDICTMENT FILED PROS ATTY: HOLCOMB, JOHN F	\$0.00	Image
01/09/1984	RETURN-PERSONAL SERVICE OF SUMMONS ON INDICTMENT	\$2.65	Image
01/11/1984	RETURN RECEIPT OF CERTIFIED MAIL (SEE IMAGE)	\$1.65	Image
01/13/1984	INDICTMENT SCANNED; DEFENDANT ARRAIGNED PLEADS NOT GUILTY	\$4.00	Image
01/17/1984	MOTION TO SEVER FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/17/1984	MOTION FOR BILL OF PARTICULARS FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/17/1984	MOTION FOR CHANGE OF VENUE FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/17/1984	MOTION TO VIEW THE SCENE FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/17/1984	MOTION TO DISMISS AND TO INSPECT GRAND JURY TRANSCRIPT FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/20/1984	MEMORANDUM IN OPPOSITION TO MOTION FOR CHANGE OF VENUE FILED ASST PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J	\$0.00	Image
01/20/1984	MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS AND TO INSPECT GRAND JURY TRANSCRIPT FILED ASST PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J	\$0.00	Image
01/20/1984	MEMORANDUM IN OPPOSITION TO MOTION TO SEVER COUNTS FILED PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J	\$0.00	Image
01/26/1984	ENTRY SCHEDULING PRETRIAL HEARING AND CONTINUING TRIAL DATE	\$2.00	Image
01/26/1984	MEMORANDUM IN SUPPORT OF MOTION TO SEVER FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
01/26/1984	MEMORANDUM IN SUPPORT OF MOTION FOR CHANGE OF VENUE FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAWpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 1/28

3/23/2015

CourtView Justice Solutions

02/01/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES)	\$6.00	Image
02/01/1984	MOTION FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
02/01/1984	MOTION TO BIFURCATE TRIAL/MOTION IN LIMINE AND MEMORANDUM FILED Attorney: SHANKS, MICHAEL D (18906)	\$0.00	Image
02/01/1984	MOTION TO PROHIBIT DEATH QUALIFICATION OF THE JURY AND MEMORANDUM FILED ATTY: SHANKS, MICHAEL D (18906)	\$0.00	Image
02/02/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
02/03/1984	MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE: DEATH QUALIFICATION OF JURORS FILED ASST PROS ATTY: SAGE, MICHAEL J	\$0.00	Image
02/08/1984	STATE'S ANSWER TO DEFT'S REQUEST FOR DISCOVERY FILED ASST PROS ATTY: SAGE, MICHAEL J	\$0.00	Image
02/08/1984	MOTION FILED PROS ATTY: HOLCOMB, JOHN F	\$0.00	Image
02/08/1984	JOURNAL ENTRY - ORDER FILED	\$2.00	Image
02/09/1984	BILL OF PARTICULARS FILED PROS ATTY: HOLCOMB, JOHN F	\$0.00	Image
02/13/1984	RETURN RECEIPTS OF CERTIFIED MAIL OF KARLA STANLEY AND DICK PERRY	\$0.00	Image
02/14/1984	JOURNAL ENTRY - INDICTMENT FOR AGGRAVATED - MURDER (WITH SPECS) DEFT INDIGENT COURT ASSIGNS MICHAEL D SHANKS AND JOHN GARRETSON TO DEFEND	\$2.00	Image
02/14/1984	MOTION TO APPOINT COUNSEL FILED Attorney: SHANKS, MICHAEL D	\$0.00	Image
02/14/1984	AFFIDAVIT OF VON CLARK DAVIS	\$0.00	Image
02/15/1984	JOURNAL ENTRY - CERTIFICATE FILED	\$2.00	Image
02/15/1984	RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES)	\$9.60	Image
02/24/1984	ENTRY FILED	\$2.00	Image
02/24/1984	ENTRY ORDERING SPECIAL VENIRE PURSUANT TO O R C 2945.18	\$2.00	Image
03/05/1984	RETURN OF NOTICE TO SUPREME COURT OF OHIO OF FILING OF INDICTMENT CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES (R.C. 2929.021(A), SUPREME COURT CASE #CC84-4, FILED 1-10-84	\$0.00	Image
03/20/1984	CERTIFIED COPIES OF RETURNED - PERSONAL SERVICE OF VENIRE FOR SPECIAL PETIT JURORS: UPON: (SEE IMAGES)	\$0.00	Image
03/22/1984	PERSONAL SERVICE OF SPECIAL VENIRES: UPON: JURORS (SEE IMAGE)	\$0.00	Image
04/20/1984	ENTRY ORDERING ADDITIONAL SPECIAL VENIRE PURSUANT TO O R C 2945.19 FILED	\$2.00	Image
04/20/1984	SUPPLEMENTAL DISCOVERY FILED Attorney: SAGE, MICHAEL J	\$0.00	Image
04/23/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
04/25/1984	DEFT'S RESPONSE TO PLTF'S MOTION FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D	\$0.00	Image
04/26/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES)	\$8.00	Image
04/26/1984	AMENDED RESPONSE TO PLTF'S FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D	\$0.00	Image
04/27/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
04/27/1984	ELECTION BY DEFT PURSUANT TO SECTION 2929.022 OF THE OHIO REVISED CODE FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETSON, JOHN A	\$0.00	Image
04/27/1984	MOTION TO HAVE REASONS FOR DEFENSE OBJECTIONS AND REASONS FOR	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 2/28

3/23/2015

CourtView Justice Solutions

	OVERRULING DEFENSE OBJECTIONS PLACED ON RECORD WITH MEMORANDUM IN SUPPORT FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A		
04/27/1984	MOTION FOR NOTICE OF PROSPECTIVE THREE-JUDGE PANEL FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETSON, JOHN A	\$0.00	Image
04/27/1984	MOTION TO INCREASE THE BURDEN OF PROOF TO BEYOND ALL DOUBT FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETSON, JOHN A	\$0.00	Image
04/27/1984	MOTION FOR PRETRIAL HEARINGS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR RULING ON NUMBER OF PEREMPTORY CHALLENGES FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO RECORD ALL PROCEEDINGS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO COMPEL PROSECUTOR TO DISCLOSE DEATH PENALTY DATA FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR PRETRIAL DISCLOSURE OF THE PROSECUTING WITNESSES' WRITTEN OR RECORDED STATEMENTS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO COMPEL DISCLOSURE OF PROSECUTING ATTORNEY'S JURY SELECTION DATA FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO REQUIRE PROSECUTOR TO STATE REASON FOR EXERCISING PEREMPTORY CHALLENGES FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR LEAVE TO FILE ADDITIONAL MOTIONS AND FOR LEAVE TO SUPPLEMENT THE MEMO IN SUPPORT OF THOSE MOTIONS ALREADY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR ALL MOTIONS TO BE HEARD ON THE RECORD FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR SEQUESTRATION OF JURORS FOR DURATION OF TRIAL FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	FURTHER MOTION TO PROHIBIT DEATH QUALIFICATION OF JURY: IN THE ALTERNATIVE TO SEAT SEPARATE JURIES DURING THE GUILT AND PENALTY PHASES OF TRIAL AND SUPPLEMENTAL MEMORANDUM THEREON FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	FURTHER MEMORANDUM IN SUPPORT OF DISCLOSURE OF GRAND JURY TESTIMONY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO INSULATE THE VENIRE AND JURY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	MOTION TO DISMISS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image
04/27/1984	SUPPLEMENTAL DISCOVERY FILED ASST PROS ATTY, MICHAEL J	\$0.00	Image
04/30/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
04/30/1984	MOTION IN LIMINE WITH MEMORANDUM FILED Attorney: GARRETSON, JOHN A	\$0.00	Image
04/30/1984	RETURNED MOTION FOR EXPERT SERVICES FILED BY Attorney: SHANKS, MICHAEL D FILED IN SUPREME COURT CASE #99-0252 ON 3-5-99	\$0.00	Image
04/30/1984	JOURNAL ENTRY - ORDER FILED	\$2.00	Image
04/30/1984	MOTION FOR ORDER RELEASING RECORDS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831)	\$0.00	Image

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 3/28

3/23/2015

CourtView Justice Solutions

04/30/1984	INVOICE (attachment)	\$0.00	Image
05/01/1984	STATE'S MEMORANDUM IN RESPONSE TO MOTIONS OF DEFT FILED ON 4-27-84 FILED ASST PROS ATTY: EICHEL, DANIEL G (08259) AND ASST PROS ATTY: SAGE, MICHAEL J	\$0.00	Image
05/03/1984	MOTION FILED PROS ATTY: HOLCOMB, JOHN F	\$0.00	Image
05/03/1984	MOTION FILED PROS ATTY: HOLCOMB, JOHN F	\$0.00	Image
05/04/1984	JOURNAL ENTRY - PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
05/04/1984	JOURNAL ENTRY FILED	\$8.00	Image
05/04/1984	JOURNAL ENTRY - WAIVER AND ELECTION FILED	\$2.00	Image
05/08/1984	JOURNAL ENTRY - JURY WAIVER AND ELECTION OF THREE-JUDGE PANEL FILED	\$2.00	Image
05/08/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
05/08/1984	RETURN-PERSONAL SERVICE OF SUBPOENA UPON : (SEE IMAGE)	\$1.65	Image
05/09/1984	JOURNAL ENTRY - MOTION AND ENTRY FILED	\$4.00	Image
05/09/1984	JOURNAL ENTRY - DESIGNATING THREE JUDGE PANEL FILED	\$2.00	Image
05/09/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
05/09/1984	RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES)	\$66.30	Image
05/10/1984	JOURNAL ENTRY - MOTION AND ENTRY FILED	\$4.00	Image
05/10/1984	INVOICE (attachment)	\$0.00	Image
05/10/1984	JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT FOR A TOTAL OF \$36.00 FILED	\$2.00	Image
05/10/1984	RETURN-PROCESS SERVICE OF SUBPOENA UPON : (SEE IMAGE)	\$0.00	Image
05/10/1984	RETURN-PROCESS SERVICE OF SUBPOENAS UPON : (SEE IMAGES)	\$0.00	Image
05/11/1984	JOURNAL ENTRY - CERTIFICATE FILED	\$2.00	Image
05/11/1984	RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES)	\$5.65	Image
05/14/1984	RETURN RECEIPT OF CERTIFIED MAIL OF MR STEVEN DIX, CHIEF OF MANAGEMENT DEPT OF CORRECTIONS	\$0.00	Image
05/14/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
05/15/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
05/16/1984	ENTRY OF FINDINGS OF GUILTY	\$2.00	Image
05/22/1984	JOURNAL ENTRY FILED	\$2.00	Image
05/22/1984	PERSONAL SERVICE OF CERTIFIED COPY OF ENTRY: UPON BUTLER COUNTY FORENSIC CENTER: (SEE IMAGE)	\$0.00	Image
05/25/1984	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE)	\$2.00	Image
06/04/1984	JUDGMENT OF CONVICTION ENTRY AND WRIT FOR THE EXECUTION OF THE DEATH PENALTY FILED	\$4.00	Image
06/05/1984	COST BILL	\$1,021.00	Image
06/11/1984	NOTICE TO SUPREME COURT OF OHIO OF PLEA OF GUILTY OR OF NO CONTEST TO AND NOTICE OF DISMISSAL OF INDICATING CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES/R C 2929.021(B) FILED	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwv21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 4/28

3/23/2015

CourtView Justice Solutions

EDWARD S ROBB JR CLERK OF COURTS, JEROME COOK, DEPUTY CLERK			
06/11/1984	JOURNAL ENTRY - OPINION FILED	\$6.00	Image
06/12/1984	APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES & AFFIDAVIT OF INDIGENCY FILED,for atty.: JOHN A GARETSON IN AMOUNT OF \$2,629.50	\$8.00	Image
06/12/1984	JOURNAL ENTRY - INDICTMENT FOR DEFT INDIGENT COURT REQUEST ASSIGNS JACK GARRETSON FILED	\$2.00	Image
06/13/1984	RETURN RECEIPT OF CERTIFIED MAIL OF SUPREME COURT OF OHIO	\$0.00	Image
06/18/1984	RECEIPT #165627 NOTICE OF APPEAL \$40.00	\$0.00	Image
06/18/1984	NOTICE OF APPEAL (COPY) FILED IN COURT OF APPEALS CA84 06 071, 6-18-84 Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image
06/22/1984	SHERIFF'S RETURN-PERSONAL SERVICE OF EXECUTION FOR COSTS \$1,021.00 IN FELONY	\$3.65	Image
06/22/1984	SHERIFF'S RETURN-PERSONAL SERVICE OF WARRANT TO CONVEY TO SOUTHERN OHIO CORRECTIONAL FACILITY	\$36.35	Image
06/27/1984	COPY OF CRIMINAL DOCKET STATEMENT FILED COPY TO COURT OF APPEALS #CA84 06 071	\$2.00	Image
08/01/1984	MOTION FILED Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image
08/01/1984	JOURNAL ENTRY FILED	\$2.00	Image
08/16/1984	MOTION FOR STAY OF EXECUTION FILED Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image
08/16/1984	JOURNAL ENTRY GRANTING STAY OF EXECUTION FILED	\$2.00	Image
08/16/1984	COPY OF ENTRY GRANTNG STAY OF EXECUTION FILED IN COURT OF APPEALS CASE #CA84 06 071	\$2.00	Image
08/20/1984	RETURN RECEIPTS OF CERTIFIED MAIL OF THOMAS L STARTZMAN AND WALLACE E STEIN - RECORD CLERK	\$0.00	Image
09/25/1984	JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT/CERTIFICATE TRANSCRIPT FEE \$753.00 FILED	\$2.00	Image
09/25/1984	JOURNAL ENTRY FILED	\$2.00	Image
09/25/1984	JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT, ATTYS FOR DEFT MIKE SHANKS AND JACK GARRETSON, TOTAL OF \$1,129.50 FILED	\$2.00	Image
09/25/1984	JOURNAL ENTRY FILED	\$2.00	Image
09/25/1984	CERTIFIED COPY OF CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT, for atty.: MIKE SHANKS AND JACK GARRETSON, TOTAL OF \$1,129.50	\$2.00	Image
08/21/1985	ADDITIONAL EXECUTION FOR COSTS IN FELONY TO SHERIFF	\$0.00	Image
05/27/1986	MEMO :NUNC PRO TUNC ENTRY TO THIS DATE FILED 5/7/90	\$0.00	
05/27/1986	JOURNAL ENTRY - OPINION FILED IN CA84-06-071	\$52.00	Image
05/27/1986	JOURNAL ENTRY MANDATE JUDGMENT ENTRY FILED IN CASE #CA84 06 071	\$2.00	Image
05/27/1986	JOURNAL ENTRY - JUDGMENT FILED IN CA84 -06-071 - COPY	\$2.00	Image
05/27/1986	SEPARATE OPINION PURSUANT TO R C 2929.05 (A) - COPY	\$2.00	Image
09/29/1988	SUPREME COURT OF OHIO COLUMBUS MANDATE FILED NO. 86-1171, 1988 TERM - COPIES ATTACHED	\$10.00	Image
09/29/1988	SUPREME COURT OF OHIO COLUMBUS MANDATE FILED NO. 86-1171, 1988 TERM - ATTACHMENT COPY OF APPEAL FROM THE COURT OF APPEALS	\$4.00	Image
09/29/1988	MOTION TO RETURN DEFT FOR SENTENCING FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906) AND Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAWpynbAQevfaHQfR1afwv21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 5/28

3/23/2015

CourtView Justice Solutions

10/05/1988	CERTIFIED COPY OF JOURNAL ENTRY FILED	\$2.00	Image
10/31/1988	PERSONAL SERVICE OF WRIT: UPON: (SEE IMAGE)	\$0.00	Image
11/04/1988	JOURNAL ENTRY FILED	\$2.00	Image
11/09/1988	PERSONAL SERVICE OF WRIT: UPON: (SEE IMAGE) AND RECEIPT FOR INMATE ATTACHED	\$0.00	Image
01/19/1989	LETTER FROM SUPREME COURT WASHINGTON DC TO JOHN F HOLCOMB	\$0.00	Image
01/19/1989	MOTION FILED Attorney: EICHEL, DANIEL G (08259)	\$0.00	Image
02/06/1989	JOURNAL ENTRY FILED	\$2.00	Image
02/10/1989	APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES & AFFIDAVIT OF INDIGENCY FILED,for atty.: MICHAEL D SHANKS, IN AMOUNT OF \$1,386.00	\$6.00	Image
05/09/1989	MOTION TO EXTEND TIME TO FILE PRERIAL MOTIONS AND MOTION TO CONTINUE SENTENCING/MITIGATION HEARING FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906)/PER PHONE AND Attorney: EVANS, TIMOTHY R (18590)/PER PHONE	\$0.00	Image
06/05/1989	NOTICE OF HEARING OF MITIGATION SET 8-4- AT 9:00 AM BEFORE JUDGE MOSER, WILLIAM R STITSINGER AND HENRY J BRUEWER	\$0.00	Image
06/28/1989	ENTRY FILED	\$2.00	Image
06/29/1989	WITHDRAW OF JURY WAIVER FILED Attorney: EVANS, TIMOTHY R (18590)	\$2.00	Image
06/29/1989	MOTION FILED Attorney: EVANS, TIMOTHY R (18590), FILED 3-5-99 SUPREME COURT OF OHIO 99-0252 AND 3-5-91, 90-2524	\$0.00	Image
06/29/1989	MOTION TO WITHDRAW THE JURY WAIVER FILED Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image
07/18/1989	MOTION FOR FURTHER PSYCHOLOGICAL EVALUATIONS, APPOINTMENT OF A SOCIAL WORKER TO PREPARE A SOCIAL HISTORY AND FOR PAYMENT OF EXTRA-ORDINARY EXPENSES FOR SAID EXPERTS FILED Attorney: GARRETSON, JOHN A (00831) AND Attorney: SHANKS, MICHAEL D	\$0.00	Image
07/18/1989	MOTION TO PROHIBIT THREE-JUDGE PANEL FROM RESENTENCING TO DEATH AND MOTION TO DISQUALIFY PANEL FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906) AND Attorney: EVANS, TIMOTHY R (18590)	\$0.00	Image
07/20/1989	RETURN COPIES OF SUBPOENAS ISSUED (SEE IMAGES)	\$6.00	Image
07/20/1989	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES)	\$8.00	Image
07/21/1989	MOTION TO STRIKE DEFT'S WITHDRAWAL OF JURY WAIVER AND MEMORANDUM FILED FIRST ASST PROS Attorney: EICHEL, DANIEL G (08259)	\$0.00	Image
07/24/1989	ORDER RE TRANSCRIPT OF DEFT AND SETTING HEARING DATE ON REMAND	\$2.00	Image
07/24/1989	MOTION TO RENEW PRETRIAL MOTIONS FILED Attorney: SHANKS, MICHAEL D (18906), GARRETSON AND EVANS	\$0.00	Image
07/24/1989	MOTION TO PERMIT THE DEFENSE TO ADMIT ALL RELEVANT EVIDENCE AT THE SENTENCING PHASE FILED Attorney: SHANKS, MICHAEL D (18906), GARRETSON AND EVANS	\$0.00	Image
07/25/1989	RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGES)	\$0.00	Image
07/25/1989	AFFIDAVIT OF DAN EICHEL	\$0.00	Image
07/26/1989	PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES)	\$2.00	Image
07/26/1989	RETURN COPIES OF PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES)	\$2.00	Image
07/26/1989	MEMORANDUM IN OPPOSITION TO DEFT'S MOTION TO PROHIBIT 3-JUDGE PANEL FROM RESENTENCING TO DEATH AND TO DISQUALIFY PANEL FILED FIRST ASST PROS Attorney: EICHEL, DANIEL G (08259)	\$0.00	Image
07/26/1989	ENTRY FILED	\$4.00	Image

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 6/28

3/23/2015

CourtView Justice Solutions

07/27/1989	RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGE)	\$0.00	Image
08/01/1989	ENTRY AS TO MOTIONS HEARD JULY 31 1989	\$4.00	Image
08/04/1989	RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGES)	\$0.00	Image
08/07/1989	JUDGEMENT OF CONVICTION ENTRY FILED	\$6.00	Image
08/10/1989	OPINION FILED	\$6.00	Image
09/06/1989	NOTICE OF APPEAL FILED DAVID C STEBBINS, SENIOR ASST PUBLIC DEFENDER IN CA1989 09 0123	\$0.00	Image
09/13/1989	APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES FILED for atty.: JOHN A GARRETSON IN AMOUNT OF \$850.00	\$8.00	Image
09/13/1989	APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES FILED for atty.: MICHAEL D SHANKS, IN AMOUNT OF \$827.00	\$8.00	Image
09/20/1989	RETURN RECEIPT OF CERTIFIED MAIL OF CLERK OHIO SUPREME COURT	\$0.00	Image
09/20/1989	RETURN-PERSONAL SERVICE OF EXECUTION FOR COSTS IN FELONY	\$3.70	Image
10/03/1989	COPIES OF CASE DOCKET SHEET ISSUED - FILED 3-5-91 SUPREME COURT #90-2524	\$2.25	Image
02/05/1990	COST BILL - TOTAL FEES \$1,383.40 - FILED 3-5-91 IN SUPREME COURT OF OHIO #90-2524	\$0.00	Image
02/09/1990	CERTIFICATE OF MAILINGS (SEE IMAGES)	\$0.00	Image
02/13/1990	COPY OF JOURNAL ENTRY FILED IN CA89 09 123	\$2.00	Image
04/10/1990	PLEASE SEE DOCKET FOR PREVIOUS FILINGS	\$0.00	
05/07/1990	APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT (NUNC PRO TUNC 5/27/86),BRUEWER,J. (IMAGED ABOVE)	\$2.00	
05/07/1990	APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT (NUNC PRO TUNC 5/27/86),BRUEWER,J.	\$2.00	Image
10/29/1990	MANDATE FILED AFFIRMING CA89 09 0123 (IMAGED UNDER JUDGMENT ENTRY)	\$2.00	
10/29/1990	JUGMENT ENTRY FILED - MANDATE CA89 09 123 - COPY OF OPINION ATTACHED	\$2.00	Image
03/30/1992	[Clerk's memo] : SUPREME CT.OH upheld (affirmed 12th District Decision) for DEATH PENALTY CA89 09 0123 S.C.OH.# 90-2524	\$0.00	
03/31/1992	[Clerk's memo] : COPY OF SUPREME CT OF OH MANDATE AFIRMING & UPHOLDING DEATH PENALTY FILED, COPIES TO Grace White for issuance of Death Warrant & certified copy of Mandate to institution/ & copy to trial court file/CA-Midd & Moser,J	\$0.00	
04/08/1992	ALL PAPERS RETURN FROM SUPREME COURT OF OH	\$0.00	
05/19/1992	[Clerk's memo] : DATE OF SCHEDULED EXECUTION	\$0.00	
10/08/1993	EVIDENTIARY HEARING REQUESTED ; PETITION TO VACATE OR SET ASIDE SENTENCE: R.C. 2953.21 FILED BY ATTY JOANN BOUR-STOKES & LINDA E PRUCHA FOR DEFENDANT	\$0.00	Image
10/08/1993	EVIDENTIARY HEARING REQUESTED; PETITION TO VACATE OR SET ASIDE SENTENCE; R.C.2953.21 FILED BY ATTY JOANN BOUR-STOKES/LINDA E PRUCHA FOR DEFENDANT (EXHIBITS ATTACHED)	\$0.00	Image
10/18/1993	ANSWER AND MOTION TO DISMISS DEFT'S PETITION FOR POSTCONVICTION RELIEF FILED		Image
10/18/1993	ASSIGNMENT OF JUDGE CREHAN FROM JUDGE MOSER FILED ELLIOTT,J	\$0.00	Image
10/20/1993	DEFT'S MOTION FOR JUDGE MOSER TO RECUSE HIMSELF FILED	\$0.00	Image
03/14/1994	ORDER SETTING CONFERENCE FOR 3/30/94 AT 4:00PM FILED CREHAN,J	\$2.00	Image
03/30/1994	STATE'S MOTION FOR LEAVE TO FILE ADDITIONAL PAGE OF THE STATE'S	\$0.00	

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwv21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 7/28

3/23/2015

CourtView Justice Solutions

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS FILED/DAN EICHEL,ATTY			
04/04/1994	JOURNAL ENTRY SETTING DATE FOR ORAL ARGUMENT SET: 6/24/94 9:00 AM FILED CREHAN,J	\$4.00	Image
04/07/1994	AMENDED ENTRY SETTING DATE FOR ORAL ARGUMENT FILED CREHAN,J	\$4.00	Image
04/11/1994	DEFT'S MOTION TO STRIKE AND MEMORANDUM FILED/JOANN BOUR-STOKES AND L PRUCHA,ATTYS	\$0.00	Image
04/12/1994	MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO STRIKE FILED BY ATTY DAN EICHEL	\$0.00	Image
11/01/1994	ENTRY RE: DEFTS MOTION FOR POST CONVICTION RELIEF;MOTION TO STRIKE AND SETTING DATE FOR EVIDENTIARY HEARING 11/23/94 FILED,CREHAN,J (DAVIS)	\$16.00	Image
11/16/1994	HEARING ON PETITION FOR POST-CONVICTION RELIEF SET 12-20-94 1:15 FILED ASSIGNMENT COMMISSIONER CINDY BAKER	\$0.00	Image
12/05/1994	DEFENDANT'S FIRST SET OF INTERROGATORIES TO PLAINTIFF FILED JOANN M JOLSTAD, LINDA E PRUCHA OH PUBLIC DEFENDER	\$0.00	Image
12/05/1994	MOTION TO SECURE ATTENDANCE OF VON CLARK DAVIS AT POST-CONVICITON EVIDENTIARY HEARING FILED JOANN M JOLSTAD, OH PUBLIC DEFENDER FOR VON CLARK DAVIS	\$0.00	Image
12/05/1994	PRECIPE FILED SUBPOENA ISSUED TO HON. JOHN R. MOSER, HON. WILLIAM R. STITSINGER ON DECEMBER 5, 1994 BY JOHN F. HOLCOMB, PROS. ATTY.	\$4.00	Image
12/07/1994	ORDER: WARRANT TO CONVEY PRISONER FOR POST CONVICTION HEARING R.C. 2953.22 FILED SAGE,J FOR CREHAN,J (VON CLARK DAVIS)	\$2.00	Image
12/09/1994	RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON. JOHN R. MOSER ON DECEMBER 9, 1994 BY JIM FARQUIS, PROCESS SERVER	\$0.00	Image
12/14/1994	ORDER VACATING WARRANT TO CONVEY PRISONER AND RESCHEDULING HEARING DATE UNTIL 1-11-95 10L00AM FILED CREHAN,J	\$2.00	Image
01/05/1995	ORDER: warrant to convey prisoner for postconviction hearing filed SAGE,J FOR MATTHEW J CREHAN (VON CLARK DAVIS)	\$2.00	Image
01/06/1995	RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON. JOHN R. MOSER ON JANUARY 6, 1995 BY PROCESS SERVER	\$0.00	Image
01/06/1995	RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON WILLIAM R. STITSINGER ON JANUARY 6, 1995 BY PROCESS SERVER	\$0.00	Image
01/06/1995	PRECIPE FILED SUBPOENA ISSUED TO HON. WILLIAM R. STITSINGER, HON. JOHN R. MOSER ON JANUARY 6, 1995 BY JOHN F. HOLCOMB, ATTY.	\$4.00	Image
01/12/1995	JOURNAL ENTRY : ORDER TO RETURN DEFENDANT TO SOUTHERN OH CORRECTIONAL FACILITY FILED CREHAN,J	\$2.00	Image
01/12/1995	TRANSCRIPT FEE	\$72.50	
01/25/1995	ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE\Cl.Reprtr SHIRLEY ROESCH \$72.50 FILED CREHAN,J	\$2.00	Image
01/25/1995	JOURNAL ENTRY STATEMENT FROM SHIRLEY ROESCH TO PROSECUTOR'S OFFICE \$72.50 FILED CREHAN,J	\$4.00	Image
01/30/1995	*TRANSCRIPT OF POST CONVICTION RELIEF HEARING FILED SHIRLEY ROESCH,COURT REPORTER *** FILED @ RECORDS CENTER***	\$0.00	
01/30/1995	CERTIFICATE \ TRANSCRIPT FEES ,filed (amount +\$2.in line 3) (certified copies>Auditor) \$217.50 TO SHIRLEY ROESCH,COURT REPORTER FILED CREHAN,J	\$2.00	Image
01/30/1995	ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE\Cl.Reprtr \$217.50 TO SHIRELEY ROESCH,COURT REPORTER FILED CREHAN,J	\$2.00	Image
01/30/1995	TRANSCRIPT FEE	\$217.50	
01/30/1995	EXHIBIT FILED BY COURT REPORTER SHIRLEY ROESCH *** FILED @ RECORDS CENTER***	\$0.00	
02/21/1995	POST EVIDENTIARY HEARING BRIEF FILED		Image
02/22/1995	SHERIFFS RETURN OF PERSONAL SERVICE OF ENTRY UPON: VON CLARK DAVIS DATE: 01-10-95 BY BCSD	\$3.00	Image
02/28/1995	SHERIFFS RETURN OF PERSONAL SERVICE OF ENTRY UPON: VON CLARK DAVIS DATE: 02-11-95 BY BCSD (PER JAIL ALREADY)	\$0.00	

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAgWpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 8/28

3/23/2015

CourtView Justice Solutions

03/02/1995	STATE'S MEMORANDUM IN RESPONSE FILED	\$0.00	Image
03/15/1995	POST-EVIDENTIARY HEARING REPLY BRIEF FILED JOANN JOLSTAD, LINDA E PRUCHA, ATTYS FOR VON CLARK DAVIS	\$0.00	Image
06/30/1995	FINAL APPEALABLE ORDER DISMISSAL ENTRY; PETITIONER'S PETITION FOR A HEARING IS DENIED AND THE MOTION OF THE STATE OF OHIO TO DISMISS THE PETITION FOR POST-CONVICTION RELIEF IS GRANTED FILED CREHAN,J	\$0.00	Image
07/31/1995	NOTICE OF APPEAL FILED/CA95 07 0124 cc:CA-Midd;Judge;CDS>file & by mail>attys\parties indicated as of record BY LINDA E PRUCHA & TRACEY LEONARD,ASST ST PUBLIC DEFENDER,ATTYS	\$25.00	
10/09/1996	MANDATE filed,forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt # CA95 07 124 PAGE 22 CORRECTED OPINION 9-30-96	\$0.00	
10/09/1996	CERTIFIED COPY OF CORRECTED PAGE TWENTY-TWO FOR BUTLER CA95 07 124 OPINION RELEASED 9-30-96 FILED 3-5-99 SUPREME COURT OF OHIO 99-0252	\$2.00	Image
02/25/1999	ALL PAPERS SENT TO SUPREME COURT OF OHIO	\$0.00	
09/15/1999	ALL PAPERS RETURN FROM SUPREME COURT OF OHIO	\$0.00	
10/18/2007	ENTRY SCHEDULING STATUS CONFERENCE FILED	\$2.00	Image
11/06/2007	APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT RANDALL L PORTER, ASST. PUBLIC DEFENDER FOR DEFENDANT VON CLARK DAVIS	\$2.00	Image
11/19/2007	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 12/03/2007 @ 9:00 AM FILED	\$6.00	Image
11/27/2007	WAIVER OF APPEARANCE OF VON CLARK DAVIS FOR THE NOVEMBER 05, 2007 STATUS CONFERENCE FILED Attorney: PORTER, RANDALL L (0005835)	\$4.00	Image
12/03/2007	NOTICE OF FILING BY VON CLARK DAVIS FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
12/04/2007	Time Waiverof Speedy Trial requirements filed	\$2.00	Image
12/04/2007	Time Waiverof Speedy Trial requirements filed	\$4.00	
12/05/2007	APPOINTMENT OF TRIAL COUNSEL IN A CAPITAL CASE FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596)	\$2.00	Image
12/06/2007	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 02/04/2008 Time: 2:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		Image
12/19/2007	ORDER GRANTING A NEW SENTENCING HEARING FILED	\$2.00	Image
12/21/2007	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 02/04/2008 @ 1:00 PM FILED	\$6.00	Image
02/05/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 03/06/2008 Time: 3:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		Image
02/05/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 06/26/2008 Time: 9:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: VACATED		Image
02/06/2008	LETTER TO JUDGE NASTOFF REGARDING VON CLARK DAVIS FILED	\$0.00	Image
02/15/2008	BON CLARK DAVIS MOTION TO BE HEARD EX PARTE ON MOTIONS FOR APPROPRIATION OF FUNDS Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
02/20/2008	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 03/06 2008	\$6.00	Image
02/26/2008	MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO PERMIT THE	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQR1afwvY21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 9/28

3/23/2015

CourtView Justice Solutions

	ACCUSED TO BE HEARD EX PARTE ON APPROPRIATION OF FUNDS FOR EXPERT ASSISTANCE Attorney: EICHEL, DANIEL G (08259) Attorney: OSTER JR Junior, MICHAEL A (0076491)		
03/14/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 03/18/2008 Time: 4:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		
03/18/2008	ENTRY REGARDING POTENTIAL THREE-JUDGE PANEL FILED	\$4.00	Image
03/19/2008	ENTRY GRANTING DEFENDANT'S MOTION AND MEMORANDUM FOR THE APPROPRIATION OF FUNDS FOR A MITIGATION SPECIALIST FILED	\$2.00	Image
03/19/2008	ENTRY GRANTING DEFENDANT'S MOTION AND MEMORANDUM FOR THE APPROPRIATION OF FUNDS FOR A PRIVATE INVESTIGATOR FILED	\$2.00	Image
03/31/2008	ENTRY AS TO RELEASE OF INSTITUTIONAL RECORDS FILED	\$2.00	Image
04/03/2008	ENTRY UNDER SEAL FILED NASTOFF, J	\$2.00	Image
04/03/2008	ENTRY UNDER SEAL FILED NASTOFF, J	\$2.00	Image
04/10/2008	VON CLARK DAVIS' MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK-REICH, MELYNDA (0066596)	\$0.00	Image
04/15/2008	VON CLARK DAVIS' AMENDED MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
04/22/2008	STATE'S MEMORANDUM IN RESPONSE, OPPOSING DEFENDANT'S AMENDED MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER IFLED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
04/23/2008	NOTICE OF APPEAL OF VON CLARK DAVIS CA2008 04 0111 FILED copy to CA, Appellee & counsel; Judge, CA deputy clerk Attorney: PORTER, RANDALL L (0005835)	\$25.00	Image
05/01/2008	VON CLARK DAVIS' REPLY IN SUPPORT OF HIS MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/08/2008	JOURNAL ENTRY FILED	\$2.00	Image
05/16/2008	VON CLARK DAVIS' MOTION FOR EXTENSION OF TIME TO FILE DEFENDANT'S MOTIONS FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/20/2008	ENTRY GRANTING MOTION FOR EXTENSION OF TIME FILED	\$2.00	Image
05/22/2008	JUDGMENT ENTRY FILED	\$4.00	Image
05/27/2008	VON CLARK DAVIS'S MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (APPENDIX, VOLUME I) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/27/2008	VON CLARK DAVIS' MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (APPENDIX, VOLUME II) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/27/2008	VON CLARK DAVIS' MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (EVIDENTIARY HEARING REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/27/2008	VON CLARK DAVIS' MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE (ORAL ARGUMENT REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/27/2008	VON CLARK DAVIS'S MOTION TO REQUIRE A SEALED COPY OF THE PROSECUTION'S FILE BE MADE PART OF THE RECORD FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/27/2008	VAN CLARK DAVIS' MOTION TO DISMISS THE CAPITAL SPECIFICATION CONTAINED IN INDICTMENT (ORAL ARGUMENT REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/28/2008	STATE'S MOTION FOR CONTINUANCE AND AN EXTENSION OF TIME TO FILE	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwv21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 10/28

3/23/2015

CourtView Justice Solutions

	MOTIONS/MEMORANDA IN RESPONSE TO DEFENDANT'S MOTION FILED 5/27/2008 FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER JR Junior, MICHAEL A (0076491)		
05/28/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO REQUIRE A SEALED COPY OF THE PROSECUTOR'S FILE TO BE MADE PART OF THE RECORD FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER JR Junior, MICHAEL A (0076491)	\$0.00	Image
05/28/2008	VON CLARK DAVIS' MOTION TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATIONS FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/30/2008	VON CLARK DAVIS' LIMITED DEMAND FOR DISCOVERY FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/30/2008	VON CLARK DAVIS' MOTION FOR PRE-TRIAL DISCLOSURE OF POLICE REPORTS AND WITNESS STATEMENTS FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
05/30/2008	VON CLARK DAVIS' MOTION TO COMPEL LAW ENFORCEMENT OFFICIALS TO PROVIDE THE PROSECUTING ATTORNEY WITH ALL THE INFORMATION ACQUIRED DURING THE COURSE OF THEIR INVESTIGATION FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
06/04/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 06/12/2008 Time: 3:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		
06/04/2008	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM STATE PENITENTIARY FILED	\$6.00	Image
06/13/2008	VON CLARK DAVIS' FIRST NOTICE OF ADDITIONAL AUTHORITY (EVIDENTIARY HEARING REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY)	\$0.00	Image
06/16/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: The following event: MOTION scheduled for 06/26/2008 at 9:00 am has been rescheduled as follows: Event: MOTION Date: 08/27/2008 Time: 9:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		Image
06/27/2008	VON CLARK DAVIS' MEMORANDUM CONCERNING HIS RIGHT TO A JURY TRIAL WITH RESPECT TO RESENTENCING (EVIDENTIARY HEARING REQUESTED PLEADING L) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY)	\$0.00	Image
06/27/2008	VON CLARK DAVIS' MOTION TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATION (EVIDENTIARY HEARING REQUESTED PLEADING K) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY)	\$0.00	Image
06/30/2008	VON CLARK DAVIS' MOTION FOR FUNDING TO RETAIN DR. MARK HEATH, M.D. (ORAL ARGUMENT REQUESTED PLEADING N) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
06/30/2008	VON CLARK DAVIS' MOTION TO PRECLUDE THE STATE FROM SEEKING THE DEATH PENALTY (ORAL ARGUMENT REQUESTED PLEADING M) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
06/30/2008	VON CLARK DAVIS' MOTION TO TRANSCRIBE THE GRAND JURY PROCEEDINGS (ORAL ARGUMENT REQUESTED PLEADING O) FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MEMORANDUM "L" "CONCERNING RIGHT TO A JURY TRIAL WITH RESPECT TO RESENTENCING" [sic] FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	MEMORANDUM IN OPPOSITION TO PRECLUDE USE OF DEATH PENALTY FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "M" TO PRECLUDE THE STATE FROM SEEKING THE DEATH PENALTY FILED Attorney: EICHEL, DANIEL G (0800259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM "O" IN OPPOSITION TO DEFENDANT'S MOTION FOR A PRE-TRIAL COPY OF THE TRANSCRIPT OF GRAND JURY PROCEEDINGS FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM "L" IN OPPOSITION TO DEFENDANT'S MOTION FOR	\$0.00	Image

http://pa.bultercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 11/28

3/23/2015

CourtView Justice Solutions

07/23/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR FUNDING TO RETAIN AN EXPERT FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "I" FOR PRE-TRIAL DISCLOSURE OF POLICE REPORTS AND WITNESS STATEMENTS FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S SUPPLEMENTAL DISCOVERY "H" FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MOTION TO STRIKE AND MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTIONS TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATIONS [DESIGNATED MOTION "G" AND "K"] FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "F" TO DISMISS THE CAPITAL SPECIFICATION CONTAINED IN THE INDICTMENT FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM "D" IN RESPONSE TO DEFENDANT'S MOTION FOR EXCULPATORY EVIDENCE FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/25/2008	STATE'S MEMORANDUM IN RESPONSE TO DEFENDANT'S MOTION "J" TO COMPEL LAW ENFORCEMENT OFFICIALS TO PROVIDE THE PROSECUTING ATTORNEY WITH ALL THE INFORMATION ACQUIRED DURING THE COURSE OF INVESTIGATION FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
07/28/2008	VON CLARK DAVIS' NOTICE OF INTENT TO APPEAL TO THE OHIO SUPREME COURT FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
08/22/2008	Issue Date: 08/22/2008 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: QUILAN, JASON Cost Per: \$ 1.00 HAMILTON POLICE DEPT CUSTODIAN OF RECORDS 331 SOUTH FRONT ST HAMILTON, OH 45011 Tracking No: C000059533 COLEMAN, WADE [REDACTED] HAMILTON, OH 45011 Tracking No: C000059534 WILLIAMS, RONNIE D [REDACTED] HAMILTON, OH 45013 Tracking No: C000059535 BRYANT, MONA ALDRIDGE [REDACTED] MIDDLETOWN, OH 45044 Tracking No: C000059536 LOVETT, MARK [REDACTED] MIDDLETOWN, OH 45044 Tracking No: C000059537 DENMARK, COZETTA MASSEY [REDACTED] CINTI, OH 45204 Tracking No: C000059538 MCCREARY, JODAWNA SOUTHERN [REDACTED] CINCINNATI, OH 45231 Tracking No: C000059539	\$8.00	Image

http://pa.bufilecountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 12/28

3/23/2015

CourtView Justice Solutions

DENMARK REGINALD

CINCINNATI, OH 45214
Tracking No: C000059540

08/22/2008	PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 08/22/2008 12:55:32	\$1.00	Image
08/22/2008	PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 08/22/2008 12:55:43	\$1.00	
08/25/2008	STATE'S SUPPLEMENTAL AUTHORITY FOR MOTION 'C' FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
08/25/2008	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 08/27/2008 @ 9:00 AM FILED	\$6.00	Image
08/25/2008	STATE'S NOTICE OF ADDITIONAL AUTHORITY RE: DEFENDANT'S MOTIONS F, G, I, J, K & L FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : BRYANT, MONA ALDRIDGE Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059536	\$0.00	Image
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : HAMILTON POLICE DEPT Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059533	\$0.00	Image
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : COLEMAN, WADE Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059534	\$0.00	Image
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : MCCREARY, JODAWNA SOUTHERN Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment :	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 13/28

3/23/2015

CourtView Justice Solutions

Tracking #: C000059539			
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : DENMARK, REGINALD Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment :	\$0.00	Image
Tracking #: C000059540			
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/26/2008 Return : 08/26/2008 On : WILLIAMS, RONNIE D Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment :	\$0.00	Image
Tracking #: C000059535			
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : DENMARK, COZETTA MASSEY Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment :	\$0.00	Image
Tracking #: C000059538			
08/26/2008	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : LOVETT, MARK Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment :	\$0.00	Image
Tracking #: C000059537			
08/28/2008	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 10/10/2008 Time: 1:30 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: VACATED		Image
08/28/2008	VON CLARK DAVIS' NOTICE OF FILING OF EXHIBITS IN SUPPORT OF MOTION O FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
08/28/2008	VON CLARK DAVIS' NOTICE OF FILING OF ADDITIONAL AUTHORITY IN SUPPORT OF PLEADING P FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
08/29/2008	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 10/10/2008 @ 1:30 PM FILED	\$6.00	Image
09/09/2008	VON CLARK DAVIS' NOTICE OF FILING OF ADDITIONAL AUTHORITY IN SUPPORT OF PLEADING M FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 14/28

3/23/2015

CourtView Justice Solutions

09/17/2008	VON CLARK DAVIS' MOTION FOR A TWO DAY EXTENSION FOR THE PARTIES TO SUBMIT BRIEFING ON THE RIPENESS ISSUE FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY)	\$0.00	Image
09/19/2008	VON CLARK DAVIS' BRIEFING ON THE ISSUE OF RIPENESS FILED Attorney: PORTER, RANDALL L (0005835)		Image
09/19/2008	SUPPLEMENTAL MEMORANDUM BY STATE IN OPPOSITION TO DEFENDANT'S MOTION "P" TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BY LETHAL INJECTION FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
09/30/2008	ORDER GRANTING MOTION FOR A TWO DAY EXTENSION FOR THE PARTIES TO SUBMIT BRIEFING ON THE RIPENESS ISSUE FILED (FAX COPY)	\$2.00	Image
10/02/2008	MOTION TO PROVIDE DISCOVERY FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
10/08/2008	VON CLARK DAVIS' WAIVER OF ORAL ARGUMENT SET FOR OCTOBER 10, 2008 FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
10/08/2008	VON CLARK DAVIS' WAIVER OF ORAL ARGUMENT SET FOR OCTOBER 10, 2008 FILED Attorney: PORTER, RANDALL L (0005835)	\$2.00	Image
10/09/2008	MOTION TO VACATE HEARING AND TRANSPORT ORDER FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
10/10/2008	VON CLARK DAVIS' MOTION TO REQUIRE THE BUTLER COUNTY SHERIFF TO CONVEY MR. DAVIS FOR TESTING AND TO MAKE THE APPROPRIATE ACCOMMODATIONS FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
10/13/2008	ENTRY AND ORDER ALLOWING NEUROPSYCHOLOGIST ACCESS TO DEFENDANT LOCATED AT BUTLER COUNTY JAIL FILED	\$4.00	Image
10/15/2008	ORDER TO VACATE HEARING AND TRANSPORT ORDER FILED	\$2.00	Image
11/07/2008	MOTION "Q" VAN CLARK DAVIS' RESPONSE TO DISCOVERY FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
11/07/2008	MOTION "S" VON CLARK DAVIS' MOTION FOR TO CONTINUE THE DECEMBER 15, 2008 SENTENCING HEARING FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
11/07/2008	MOTION "R" VON CLARK DAVIS' SECOND MOTION TO BE HEARD EX PARTE ON FUNDING ISSUES FILED Attorney: PORTER, RANDALL L (0005835) Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
11/13/2008	STATE'S RESPONSE TO DEFENDANT'S MOTION FOR CONTINUANCE FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
11/18/2008	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 11/24/2008 @ 9:00 AM FILED	\$6.00	Image
11/24/2008	PRETRIAL COURT JOURNAL ORDER	\$2.00	Image
12/11/2008	VON CLARK DAVIS' RENEWED MOTION TO STAY THE COURT'S MARCH 31, 2008 ORDER FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
12/29/2008	ENTRY JOURNALIZING DECISION ON MOTIONS FILED BY DEFENDANT FILED	\$64.00	Image
02/06/2009	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A SENTENCE HEARING ON 05/11/2009 @ 8:30 AM FILED	\$6.00	Image
03/12/2009	MOTION FOR ORDER OR SANCTIONS UNDER CRIM.R. 16(E)(3) FOR DEFENSE NON-DISCLOSURE OF DISCOVERABLE MATTERS FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
03/17/2009	MOTION IN LIMINE FOR ORDER AS TO PROCEDURE TO BE FOLLOWED FOR CONSIDERATION OF EVIDENCE ADMITTED AT 1984 "GUILT-PHASE" TRIAL FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
03/24/2009	COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 04/02/2009 Time: 1:30 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: RESET HEARING		
03/24/2009	VON CLARK DAVIS' ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) (FAX COPY)	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAWpypunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 15/28

3/23/2015

CourtView Justice Solutions

03/25/2009	ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 04/02/2009 @ 8:30 AM FILED	\$6.00	Image
03/26/2009	COURT ADMINISTRATION OFFICE HAS SCHEDULED: The following event: MOTION scheduled for 04/02/2009 at 1:30 pm has been rescheduled as follows: Event: MOTION Date: 04/08/2009 Time: 10:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor		
03/30/2009	TRANSCRIPT REQUEST FILED	\$0.00	Image
04/02/2009	TRANSCRIPT OF PROCEEDING MOTION HEARING ON AUGUST 28, 2008 FILED	\$3.00	Image
04/02/2009	TRANSCRIPT OF PROCEEDING MOTION HEARING ON AUGUST 27, 2008 FILED	\$3.00	Image
04/02/2009	VON CLARK DAVIS' MOTION TO EXTEND THE TIME TO ANSWER THE STATE'S MOTION IN LIMINE FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
04/03/2009	TRANSCRIPT REQUEST FILED	\$0.00	Image
04/06/2009	VON CLARK DAVIS' MEMORANDUM CONTRA TO THE STATE'S MOTION IN LIMINE FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596) (FAX COPY)	\$0.00	Image
04/07/2009	STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: EICHEL, DANIEL G (0008259)	\$0.00	Image
04/08/2009	STATE'S REPLY: MEMORANDUM TO THE DEFENDANT'S MEMORANDUM CONTRA THE STATE'S MOTION IN LIMINE RE: PROCEDURE FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491)		Image
04/08/2009	VON CLARK DAVIS' NOTICE OF FILING FILED Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
04/08/2009	NOTICE OF COUNSEL'S CHANGE OF ADDRESS FILED Attorney: PORTER, RANDALL L (0005835)	\$0.00	Image
04/09/2009	MOTION AND CERTIFICATION BY COURT REPORTER FOR TRANSCRIPTION FEES FILED	\$0.00	Image
04/09/2009	ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE \$1,252.50\Cl.Reprtr	\$2.00	Image
04/09/2009	CERTIFICATE \ TRANSCRIPT FEES \$1,252.50, filed (amount +\$2.in line 3) (certified copies>Auditor)	\$2.00	Image
04/09/2009	TRANSCRIPT FEE	\$1,252.50	
04/13/2009	STATE'S SUPPLEMENTAL DISCOVERY (4/13/2009) FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
04/20/2009	VON CLARK DAVIS' NOTICE OF FILING # 3 FILED Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
04/20/2009	VON CLARK DAVIS' OBJECTIONS TO THE COURT'S PROPOSED PROCEDURES CONCERNING THE TRIAL PHASE TESTIMONY AND EVIDENCE FILED Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
04/21/2009	VON CLARK DAVIS' SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596); Attorney: PORTER, RANDALL (0005835) (FAX)	\$0.00	Image
04/21/2009	VON CLARK DAVIS' MOTION TO FILE RECORDS UNDER SEAL FILED Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
04/24/2009	EXHIBIT (EMAIL FROM JUDGES) FILED	\$0.00	Image
04/27/2009	VON CLARK DAVIS' NOTICE OF FILING UNDER SEAL FILED Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
04/27/2009	ENTRY GRANTING MOTION TO FILE RECORDS UNDER SEAL FILED	\$2.00	
04/30/2009	Issue Date: 04/30/2009 Service: SUBPOENA BY RESIDENCE SERVICE Method: SERVICE BY SHERIFF OF BUTLER COUNTY	\$8.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfahQfR1afwv21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 16/28

3/23/2015

CourtView Justice Solutions

Cost Per: \$ 2.00

FURMON, CHARLES R
 [REDACTED]
 HAMILTON, OH 45013
 Tracking No: C000190277

CARPENTER, RICHARD R
 [REDACTED]
 HAMILTON, OH 45011
 Tracking No: C000190278

BRANDABUR, Dr JOSEPH H
 BUTLER COUNTY CORONER'S OFFICE
 200 N "F" STREET
 HAMILTON, OH 45011
 Tracking No: C000190279

CUNNINGHAM, LESLIE
 [REDACTED]
 TROTWOOD, OH 45246
 Tracking No: C000190280

04/30/2009	PRECIPE FILED AND SUBPOENA BY RESIDENCE SERVICE ISSUED. SUBPOENA BY RESIDENCE SERVICE Sent on: 04/30/2009 13:06:14	\$1.00	Image
04/30/2009	STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
04/30/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
04/30/2009	DEFENDANT'S NOTICE OF WITHDRAWAL OF MOTION TO FILE RECORDS UNDER SEAL FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/01/2009	RETURN: RESIDENCE SERVICE UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/01/2009 Return : 05/01/2009 On : CUNNINGHAM, LESLIE Signed By : Reason : RESIDENCE SERVICE SUCCESSFUL Comment : MAILED OUT Tracking #: C000190280	\$7.50	Image
05/04/2009	TRANSCRIPT REQUEST FILED	\$0.00	Image
05/05/2009	STATE'S SUPPLEMENTAL DISCOVERY (5/5/09) FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
05/06/2009	Issue Date: 05/06/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: ATTORNEY Cost Per: \$ 5.00	\$5.00	Image

SMITH, CAROL A
 [REDACTED]
 FOREST PARK, OH 45240
 Tracking No: C000067043

DAVIS, ELIOT BUTCH
 [REDACTED]
 HAMILTON, OH 45011

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 17/28

3/23/2015

CourtView Justice Solutions

Tracking No: C000067044

NOWACK, SCOTT
C/O OHIO STATE PENITENTIARY
878 COITSVILLE HUBBARD RD
YOUNGSTOWN, OH 44505
Tracking No: C000067045

TIPTON, CHARLES
[REDACTED]
CINCINNATI, OH 45240
Tracking No: C000067046

DAVIS, VICTOR L
[REDACTED]
HAMILTON, OH 45011
Tracking No: C000067047

TIPTON, ALLISTER
[REDACTED]
FOREST PARK, OH 45240
Tracking No: C000067048

DAVIS, SHERRY
[REDACTED]
FOREST PARK, OH 45240
Tracking No: C000067049

05/06/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 05/06/2009 13:13:14

05/07/2009 Issue Date: 05/07/2009 \$5.00 [Image](#)

Service: SUBPOENA BY PROCESS SERVER
Method: SERVICE BY PROCESS SERVER
Provider: ATTORNEY
Cost Per: \$ 5.00

NOWACK, SCOTT
C/O OHIO STATE PENITENTIARY
878 COITSVILLE HUBBARD RD
YOUNGSTOWN, OH 44505
Tracking No: C000067059

05/07/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 05/07/2009 09:28:43

05/07/2009 Issue Date: 05/07/2009 \$5.00 [Image](#)

Service: SUBPOENA BY PROCESS SERVER
Method: SERVICE BY PROCESS SERVER
Provider: ATTORNEY
Cost Per: \$ 5.00

ROTUNDO, RICK
[REDACTED]
LOVELAND, OH 45140
Tracking No: C000067072

FLOWERS, DELBERT
[REDACTED]
GAITHERSBURG, MD 20878
Tracking No: C000067073

3/23/2015

CourtView Justice Solutions

MAUSSEN, CYNTHIA
ADULT PAROLE AUTHORITY
770 WEST BROAD ST
COLUMBUS, OH 43215
Tracking No: C000067074

05/07/2009	PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 05/07/2009 14:17:28	\$1.00	Image
05/07/2009	ENTRY APPOINTING SPECIAL PROCESS SERVER FILED	\$2.00	Image
05/07/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/08/2009	Issue Date: 05/08/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: ATTORNEY Cost Per: \$ 5.00 STINEMAN, JEROME GRANDIN HOUSE STE 601 2101 GRANDIN RD CINCINNATI, OH 45208 Tracking No: C000067120	\$5.00	Image
05/08/2009	PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 05/08/2009 14:38:11	\$1.00	Image
05/08/2009	DEFENDANT'S MOTION IN LIMINE FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/08/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
05/08/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) (FAX)	\$0.00	Image
05/11/2009	RETURN: RESIDENCE SERVICE UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/04/2009 Return : 05/11/2009 On : BRANDABUR, Dr JOSEPH H Signed By : Reason : RESIDENCE SERVICE SUCCESSFUL Comment : SUB SERVED UPON: SALLY POYNTER Tracking #: C000190279	\$8.00	Image
05/11/2009	RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/05/2009 Return : 05/11/2009 On : CARPENTER, RICHARD R Signed By : Reason : PERSONAL SERVICE SUCCESSFUL Comment : Tracking #: C000190278	\$9.50	Image
05/11/2009	RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE	\$9.50	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 19/28

3/23/2015

CourtView Justice Solutions

Served : 05/04/2009
 Return : 05/11/2009
 On : FURMON, CHARLES R
 Signed By :

Reason : PERSONAL SERVICE SUCCESSFUL
 Comment :

Tracking #: C000190277

05/11/2009 ENTRY FILED \$2.00 [Image](#)

05/12/2009 TRANSCRIPT REQUEST FILED \$0.00 [Image](#)

05/13/2009 COURT ADMINISTRATION OFFICE HAS SCHEDULED;
 Event: PRETRIAL CONFERENCE HEARING
 Date: 09/03/2009 Time: 11:00 am
 Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor [Image](#)

05/13/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 05/07/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 05/08/2009
 Return : 05/13/2009
 On : NOWACK, SCOTT
 Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
 Comment :

Tracking #: C000067059

05/13/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 05/07/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 05/08/2009
 Return : 05/13/2009
 On : MAUSSEN, CYNTHIA
 Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
 Comment :

Tracking #: C000067074

05/19/2009 TRANSCRIPT OF PROCEEDING MOTION HEARING APRIL 8, 2009 FILED \$3.00 [Image](#)

05/22/2009 ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE
 PENITENTIARY FOR A PRE-TRIAL CONFERENCE ON 09/03/2009 @ 9:00 AM FILED \$6.00 [Image](#)

06/03/2009 MOTION AND CERTIFICATION BY COURT REPORTER FOR TRANSCRIPTION FEES
 FILED \$0.00 [Image](#)

06/03/2009 CERTIFICATE \ TRANSCRIPT FEES \$450.00, filed (amount +\$2. in line 3) (certified
 copies>Auditor) \$2.00 [Image](#)

06/03/2009 ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE \$450.00\Cl.Reprtr \$2.00 [Image](#)

06/03/2009 TRANSCRIPT FEE \$450.00

08/05/2009 VON CLARK DAVIS' MOTION TO EXPEDITE RULING FILED Attorney: COOK REICH,
 MELYNDA (0066596) \$0.00 [Image](#)

08/19/2009 Issue Date: 08/19/2009 \$5.00 [Image](#)
 Service: SUBPOENA BY PROCESS SERVER
 Method: SERVICE BY PROCESS SERVER
 Provider: ATTORNEY
 Cost Per: \$ 5.00

NOWACK, SCOTT
 C/O OHIO STATE PENITENTIARY
 878 COITSVILLE HUBBARD RD
 YOUNGSTOWN, OH 44505
 Tracking No: C000070523

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhoFURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 20/28

3/23/2015

CourtView Justice Solutions

Tracking No: C000070524

MAUSSER, CYNTHIA
C/O OHIO PAROLE BOARD
770 WEST BROAD ST
COLUMBUS, OH 43222
Tracking No: C000070524

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 08/19/2009 11:31:20

08/19/2009 Issue Date: 08/19/2009 \$40.00 [Image](#)
Service: SUBPOENA BY CERTIFIED MAIL
Method: SERVICE BY CERTIFIED MAIL
Cost Per: \$ 8.00

SMITH, CAROLA
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198274

STINEMAN, JEROME
GRANDIN HOUSE STE 601
2101 GRANDIN RD
CINCINNATI, OH 45208
Tracking No: L000198275

TIPTON, ALLUSTER
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198276

DAVIS, SHERRY
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198277

ROTUNDO, RICK
[REDACTED]
LOVELAND, OH 45140
Tracking No: L000198278

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY CERTIFIED MAIL
Sent on: 08/19/2009 11:52:16

08/19/2009 Issue Date: 08/19/2009 \$4.00 [Image](#)
Service: CRIMINAL SUBPOENA BY SHERIFF
Method: SERVICE BY SHERIFF OF BUTLER COUNTY
Cost Per: \$ 2.00

DAVIS, VICTOR
[REDACTED]
HAMILTON, OH 45013
Tracking No: C000197157

DAVIS, ELLIOT BUTCH
[REDACTED]
HAMILTON, OH 45011
Tracking No: C000197158

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY SHERIFF

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 21/28

3/23/2015

CourtView Justice Solutions

Sent on: 08/19/2009 12:20:07

08/19/2009	OUT OF STATE WITNESS APPLICATION FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
08/21/2009	STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
08/26/2009	STATE'S SUPPLEMENTAL DISCOVERY (08/26/2009) FILED Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
08/28/2009	Issue Date: 08/28/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: PROSECUTOR'S OFFICE Cost Per: \$ 5.00 FURMON, CHARLES R [REDACTED] HAMILTON, OH 45013 Tracking No: C000070886 LINK, LISA [REDACTED] CINTI, OH 45239 Tracking No: C000070887 BRANDABUR, Dr JOSEPH H BUTLER COUNTY CORONER'S OFFICE 200 N "F" STREET HAMILTON, OH 45011 Tracking No: C000070888	\$5.00	Image
08/28/2009	PRECIPE FILED SUBPOENA ISSUED, SUBPOENA BY PROCESS SERVER Sent on: 08/28/2009 09:04:30	\$1.00	Image
08/28/2009	CERTIFICATE UNDER UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESS FROM WITHOUT A STATE IN CRIMINAL PROCEEDINGS FILED	\$4.00	Image
08/31/2009	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009 Return : 08/31/2009 On : ROTUNDO, RICK Signed By : RICK ROTUNDO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000198278	\$0.00	Image
08/31/2009	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009 Return : 08/31/2009 On : TIPTON, ALLUSTER Signed By : ALLUSTER TIPTON Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000198276	\$0.00	Image
08/31/2009	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 22/28

3/23/2015

CourtView Justice Solutions

Return : 08/31/2009
 On : DAVIS, SHERRY
 Signed By : SHERRY DAVIS

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198277

08/31/2009 RETURN RECEIPT OF CERTIFIED MAIL OF \$0.00 [Image](#)

Method : SERVICE BY CERTIFIED MAIL
 Issued : 08/19/2009
 Service : SUBPOENA BY CERTIFIED MAIL
 Served : 08/20/2009
 Return : 08/31/2009
 On : SMITH, CAROL A
 Signed By : ALLUSTER TIPTON

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198274

08/31/2009 RETURN RECEIPT OF CERTIFIED MAIL OF \$0.00 [Image](#)

Method : SERVICE BY CERTIFIED MAIL
 Issued : 08/19/2009
 Service : SUBPOENA BY CERTIFIED MAIL
 Served : 08/20/2009
 Return : 08/31/2009
 On : STINEMAN, JEROME
 Signed By : ILLEGIBLE

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198275

08/31/2009 STATE'S SUPPLEMENTAL DISCOVERY (8/31/2009) FILED Attorney: OSTER Junior, \$0.00 [Image](#)
 MICHAEL A (0076491)

08/31/2009 DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED \$0.00 [Image](#)
 Attorney: COOK REICH, MELYNDA (0066596)

09/02/2009 FAILURE OF RESIDENCE SERVICE ON: \$8.00 [Image](#)

Method : SERVICE BY SHERIFF OF BUTLER COUNTY
 Issued : 08/19/2009
 Service : CRIMINAL SUBPOENA BY SHERIFF
 Served :
 Return : 09/02/2009
 On : DAVIS, ELLIOT BUTCH
 Signed By :

Reason : FAILURE OF RESIDENCE SERVICE
 Comment : BAD ADDRESS, DOES NOT EXIST

Tracking #: C000197158

09/02/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 08/28/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 09/02/2009
 Return : 09/02/2009
 On : LINK, LISA
 Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
 Comment :

Tracking #: C000070887

09/02/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 08/28/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 09/02/2009
 Return : 09/02/2009
 On : LINK, LISA
 Signed By :

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 23/28

3/23/2015

CourtView Justice Solutions

On : BRANDABUR, DE JOSEPH H
Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
Comment :

Tracking #: C000070888

09/02/2009	PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/28/2009 Service : SUBPOENA BY PROCESS SERVER Served : 09/02/2009 Return : 09/02/2009 On : FURMON, CHARLES R Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000070886	\$0.00	Image
09/03/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596)	\$0.00	Image
09/04/2009	ENTRY GRANTING FUNDS FOR OUT OF STATE WITNESS APPEARANCE FILED	\$2.00	Image
09/04/2009	DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596);Attorney: PORTER, RANDALL (0005835) (FAX)	\$0.00	Image
09/08/2009	VON CLARK DAVIS EXHIBIT LIST FILED Attorney: COOK REICH, MELYNDA (0066596). Attorney: PORTER, RANDALL (0005835)	\$0.00	Image
09/09/2009	RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 08/19/2009 Service : CRIMINAL SUBPOENA BY SHERIFF Served : 08/25/2009 Return : 09/09/2009 On : DAVIS, VICTOR Signed By : Reason : PERSONAL SERVICE SUCCESSFUL Comment : BY: KIM PREWITT #1434 (BCSO) Tracking #: C000197157	\$7.50	Image
09/11/2009	VERDICT FORM FILED	\$0.00	Image
09/21/2009	JUDGMENT SENTENCING VON CLARK DAVIS TO OHIO DEPT OF CORRECTIONS REHABILITATION	\$2.00	Image
09/21/2009	"STENOGRAPHER" (TAPE TRANSCRIPTION) FEE	\$25.00	
09/21/2009	Taking or receiving prisoner before the judge.	\$30.00	
09/21/2009	SENTENCING OPINION FILED	\$24.00	Image
09/22/2009	FILING IN COURT OF APPEALS AND NOTIFICATION TO SUPREME COURT OF JUDGMENT ENTRY OF CONVICTION AND SENTENCING OPINION FILED NASTOFF, PATER,SPAETH, JUDGES	\$2.00	Image
09/23/2009	UPS TRACKING INFORMATION; PROOF OF DELIVERY	\$0.00	Image
10/12/2009	DEFENDANT ON PROBATION OR INCARCERATED. COSTS TO BE COLLECTED BY PROBATION.		
10/22/2009	TRANSCRIPT REQUEST FILED	\$0.00	Image
11/02/2009	REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES \$487.50 FILED	\$2.00	Image
01/08/2010	APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES \$16,519.25 & AFFIDAVIT OF INDIGENCY FILED,for atty.: MELYNDA COOK	\$2.00	Image
01/08/2010	Indigent Application Fee (OPD-206R) ORC 120.36	\$25.00	
01/26/2010	DEFENDANT'S MOTION FOR APPOINTMENT AND MOTION TO ALLOW APPEARANCE	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 24/28

3/23/2015

CourtView Justice Solutions

	PRO HAC VICE FILED Attorney: KOMP, LAURENCE (0060142) (FAX)		
01/27/2010	REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES \$17,862.00 FILED	\$2.00	Image
02/11/2010	ORDER GRANTS DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL AND MOTION TO ALLOW APPEARANCE PRO HAC VICE FILED (FAX)	\$2.00	Image
03/26/2010	ENTRY DEFENDANT'S MOTION FOR THE APPROPRIATION OF FUNDS FOR A PSYCHOLOGIST(APRIL 3, 2008) BE REFILED UNDER SEAL FILED NASTOFF,J	\$2.00	Image
03/26/2010	ENTRY DEFENDANT'S MOTION FOR THE APPROPRIATION OF FUNDS FOR A PSYCHOLOGIST(APRIL 3, 2008) BE REFILED UNDER SEAL FILED NASTOFF,J	\$2.00	Image
06/23/2010	PRECIPE FOR DEATH WARRANT IN STATE CASE FILED Attorney: PIPER Prosecutor Butler County Ohio, ROBIN (23205)	\$0.00	Image
07/15/2010	ENTRY ORDERING WRIT FOR EXECUTION OF DEATH PENALTY FILED	\$2.00	Image
07/20/2010	Issue Date: 07/20/2010 Service: DEATH WARRANT Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 SUPREME COURT OF OHIO CLERKS OFFICE 65 SOUTH FRONT ST 8TH FLOOR COLUMBUS, OH 43215 Tracking No: L000226575	\$8.00	
07/20/2010	DEATH WARRANT ISSUED. DEATH WARRANT Sent on: 07/20/2010 11:10:09		Image
07/21/2010	Issue Date: 07/21/2010 Service: PERSONAL SERVICE BY SHERIFF Method: SERVICE BY SHERIFF OF BUTLER COUNTY Cost Per: \$ 2.00 SOUTHERN OHIO CORRECTIONAL FACILITY LUCASVILLE, OH 45699 Tracking No: C000216863	\$2.00	
07/21/2010	PERSONAL SERVICE OF WRIT: UPON: PERSONAL SERVICE BY SHERIFF Sent on: 07/21/2010 11:04:57	\$0.00	Image
07/21/2010	DEATH WARRANT	\$0.00	Image
07/21/2010	Issue Date: 07/21/2010 Service: DEATH WARRANT Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 DAVIS, VON CLARK c/o ATTY: KOMP, LAURENCE ATTORNEY AT LAW PO BOX 1785 MANCHESTER, MI 63011 Tracking No: L000226665	\$8.00	
07/21/2010	DEATH WARRANT ISSUED. DEATH WARRANT		Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfahQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 25/28

3/23/2015

CourtView Justice Solutions

Sent on: 07/21/2010 11:44:42

07/21/2010	Issue Date: 07/21/2010 Service: DEATH WARRANT Method: SERVICE BY INTER-OFFICE COURIER Provider: JOHNSON, CAROLYN Cost Per: \$ 5.00 BUTLER COUNTY PROSECUTORS OFFICE 315 HIGH ST, 11TH FLOOR ATTN MIKE OSTER HAMILTON, OH 45011 Tracking No: I000003538 NASTOFF Judge, ANDREW GOVERNMENT SERVICES CENTER 315 HIGH STREET 3RD FLOOR HAMILTON, OH 45011 Tracking No: I000003539	\$10.00	
07/21/2010	DEATH WARRANT ISSUED. DEATH WARRANT Sent on: 07/21/2010 12:12:40		Image
07/27/2010	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/20/2010 Service : DEATH WARRANT Served : 07/23/2010 Return : 07/27/2010 On : SUPREME COURT OF OHIO Signed By : SUPREME COURT OF OHIO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000226575	\$0.00	Image
07/27/2010	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/21/2010 Service : DEATH WARRANT Served : 07/23/2010 Return : 07/27/2010 On : KOMP, LAURENCE Signed By : LAURENCE E KOMP Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000226665	\$0.00	Image
08/30/2010	PERSONAL SERVICE OF DEATH WARRANT : UPON: BUTLER COUNTY SHERIFF TO SERVE SOUTHERN OHIO CORRECTIONAL FACILITY SERVED: 8/20/10	\$0.00	Image
09/13/2010	ALL PAPERS SENT TO COURT OF APPEALS	\$0.00	
09/23/2010	APPELLANT'S MOTION FOR A STAY OF EXECUTION FILED Attorney: KOMP, LAURENCE (0060142) (FAX)	\$0.00	Image
10/11/2010	DECISION AND ENTRY DENYING DEFENDANT'S MOTION FOR A STAY OF EXECUTION FILED	\$2.00	Image
02/22/2011	MANDATE filed, forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt CA# : CA09-10- 0263	\$35.00	Image
10/21/2011	DEFENDANT-PETITIONER'S MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
10/21/2011	DEFENDANT-PETITIONER'S MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
10/21/2011	NOTICE OF APPEARANCE OF COUNSEL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$2.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 26/28

3/23/2015

CourtView Justice Solutions

	(0040434); Attorney: HENRY, ERIK P (0085155)		
10/21/2011	POST-CONVICTION DEFENDANT-PETITIONER VON CLARK DAVIS' PETITION TO VACATE OR SET ASIDE SENTENCE PURSUANT TO R.C. 2953.31 FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
10/25/2011	STIPULATION OF EXTENSION OF TIME TO RESPOND TO PENDING MOTIONS FILED Attorney: GATTERDAM, KORT (0040434) Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
11/10/2011	STATE OF OHIO'S MEMORANDUM IN OPPOSITION TO PETITIONER'S MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: CASTER, DONALD R (0077413); Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
11/10/2011	MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT FILED Attorney: CASTER, DONALD R (0077413)	\$0.00	Image
11/10/2011	STATE OF OHIO'S MEMORANDUM IN OPPOSITION TO PETITIONER'S MOTION FOR RECUSAL FILED Attorney: CASTER, DONALD R (0077413); Attorney: OSTER Junior, MICHAEL A (0076491)	\$0.00	Image
11/21/2011	POST-CONVICTION DEFENDANT-PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REPLY MEMORANDUM IN SUPPORT OF POST-CONVICTION PETITION, MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY, AND MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
11/22/2011	ENTRY GRANTING DEFENDANT-PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF TIME FILED	\$2.00	Image
11/29/2011	ENTRY GRANTING DEFENDANT'S-PETITIONER'S MOTION FOR EXTENSION OF TIME FILED	\$2.00	Image
12/07/2011	DEFENDANT-PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)		Image
12/07/2011	DEFENDANT-PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)		Image
12/07/2011	DEFENDANT-PETITIONER VON CLARK DAVIS' MEMORANDUM IN OPPOSITION TO PLAINTIFF-RESPONDENT'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155)	\$0.00	Image
01/06/2012	ORDER DENYING DEFENDANT'S MOTION FOR RECUSAL FILED	\$2.00	Image
01/13/2012	DEFENDANT-PETITIONER VON CLARK DAVIS'S APPLICATION FOR DISQUALIFICATION OF BUTLER COUNTY COMMON PLEAS COURT JUDGE DANIEL ANDREW NASTOFF FILED Attorney: GATTERDAM, KORT (0040434) (FILED JAN 10, 2012 CLERK OF COURT SUPREME COURT OF OHIO CASE # 12AP004)	\$0.00	Image
01/13/2012	AFFIDAVIT OF KORT GATTERDAM FILED	\$0.00	Image
02/22/2012	JUDGMENT ENTRY FILED	\$10.00	Image
11/26/2012	ENTRY AND ORDER DISMISSING PETITION FOR POSTCONVICTION RELIEF AND DENYING MOTION FOR LEAVE TO CONDUCT DISCOVERY (FINAL APPEALABLE ORDER) FILED	\$36.00	Image
12/18/2012	NOTICE OF APPEAL CA 2012 12 0258 FILED	\$0.00	Image
07/03/2013	Issue Date: 07/03/2013 Service: COPY BY CERTIFIED MAIL Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 SUPREME COURT OF OHIO CLERK OF COURTS STEVE KAHLER, RECORDS SPECIALIST 65 SOUTH FRONT ST 8TH FLOOR COLUMBUS, OH 43215 Tracking No: L000305186	\$8.00	
07/03/2013	COPY BY CERTIFIED MAIL ISSUED. COPY ISSUED BY CERTIFIED MAIL	\$0.00	Image

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 27/28

3/23/2015

CourtView Justice Solutions

Sent on: 07/03/2013 08:54:03.42

07/12/2013	RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/03/2013 Service : COPY BY CERTIFIED MAIL Served : 07/08/2013 Return : 07/12/2013 On : SUPREME COURT OF OHIO Signed By : SUPREME COURT OF OHIO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000305186	\$0.00	Image
07/22/2013	NOTICE- SENT FILINGS FROM 10-21-11 TO PRESENT INTEROFFICE TO COURT OF APPEALS (PER JUDY)	\$0.00	
09/09/2013	MANDATE filed, forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt CA# : CA121-12-0258	\$35.00	Image
07/14/2014	JUDGMENT ENTRY FROM SUPREME COURT AFFIRMING FILED	\$2.00	Image

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

FILED
2011 OCT 21 PM 12:46
MARY L. SWANN
BUTLER COUNTY
CLERK OF COURTS

STATE OF OHIO,	:	Case No. CR-1983-12-0614
	:	
Plaintiff-Respondent,	:	Judge Nastoff
	:	
v.	:	
	:	
VON CLARK DAVIS,	:	CAPITAL CASE
	:	
Defendant-Petitioner.	:	EVIDENTIARY HEARING REQUESTED

DEFENDANT-PETITIONER VON CLARK DAVIS'
PETITION TO VACATE OR SET ASIDE SENTENCE PURSUANT TO R.C. 2953.21

I. CASE HISTORY

1. On January 13, 1984, an indictment was filed charging Defendant-Petitioner Von Clark Davis with one count of aggravated murder in violation of R.C. 2903.01(A) and one count of having weapons while under disability in violation of R.C. 2923.13(A)(2). The aggravated murder count included two specifications: (1) the purposeful killing of another as specified in R.C. 2929.04(A)(5), and (2) having a firearm on or about his person or under his control while committing the offense at bar as specified in R.C. 2929.71.

2. On May 9, 1984, trial began before the original three-judge panel. Davis was represented by Michael D. Shanks and John A. Garretson.

3. On May 11, 1984, the original three-judge panel returned guilty verdicts for both counts of the indictment and for both specifications to the aggravated murder count.

4. The sentencing phase began on May 29, 1984. The original three-judge panel returned a verdict of death on the same day the penalty phase began, May 29, 1984.

5. Davis appealed his conviction and sentence to the Twelfth District Court of Appeals. For this appeal, Davis was represented by Timothy R. Evans.

6. On May 27, 1986, the Twelfth District Court of Appeals affirmed Davis' conviction and sentence. *State v. Davis* (May 27, 1986), Butler App. No. CA84-06-071, 1986 Ohio App. LEXIS 6919 (*Davis I*).

7. Davis appealed the Twelfth District Court of Appeals' decision to the Ohio Supreme Court. Davis was still represented by Timothy R. Evans.

8. On September 14, 1988, the Ohio Supreme Court affirmed Davis' convictions, but vacated his sentence because the original three-judge panel improperly considered non-statutory aggravating circumstances. *State v. Davis* (1988), 38 Ohio St.3d 361, 366-73 (*Davis II*). The court remanded the action to the trial court for resentencing to one of the sentencing options in R.C. 2929.03, including death.

9. On August 4, 1989, the resentencing hearing commenced before the original three-judge panel. Davis was again represented by Michael D. Shanks and John A. Garretson.

10. Limiting its consideration, over objection, to the evidence presented at the original sentencing hearing, on August 4, 1989, the three-judge panel resentedenced Davis to death. The opinion from the three-judge panel was filed on August 10, 1989.

11. Davis appealed his sentence to the Twelfth District Court of Appeals. For this appeal, Davis was represented by Joann Bour-Stokes and Linda E. Prucha of the Office of the Ohio Public Defender.

12. On October 29, 1990, the Twelfth District Court of Appeals affirmed Davis' sentence of death. *State v. Davis* (Oct. 29, 1990), Butler App. No. CA89-09-123, 1990 Ohio App. LEXIS 4717 (*Davis III*).

13. Davis appealed the Twelfth District Court of Appeals' decision to the Ohio Supreme Court. Davis was still represented by Joann Bour-Stokes and Linda E. Prucha.

14. On February 19, 1992, the Ohio Supreme Court affirmed Davis' sentence. *State v. Davis* (1992), 63 Ohio St.3d 44 (*Davis IV*). On March 2, 1992, Davis filed a Motion for Rehearing in the Ohio Supreme Court, which was denied on March 25, 1992. On April 26, 1993, Davis filed a Second Motion for Rehearing in the Ohio Supreme Court, which was denied on May 26, 1993.

15. On October 8, 1993, Davis filed a petition pursuant to R.C. 2953.21 to vacate or set aside his convictions and/or sentences stemming from the 1983 trial and 1989 sentencing. Davis was represented by Joann Bour-Stokes and Linda E. Prucha.

16. On November 1, 1994, the trial court dismissed all but one of the causes of action raised in Davis' petition. Following an evidentiary hearing, the trial court filed a judgment entry on June 30, 1995, dismissing the remaining claim.

17. Davis appealed the dismissal to the Twelfth District Court of Appeals. Davis was represented by Linda E. Prucha and Tracey A. Leonard of the Office of the Ohio Public Defender.

18. On September 30, 1996, the Twelfth District Court of Appeals affirmed the trial court's dismissal. *State v. Davis* (Sept. 30, 1996), Butler App. No. CA95-07-124, 1996 Ohio App. LEXIS 4263. The Ohio Supreme Court declined jurisdiction to hear Davis' appeal. *State v. Davis* (1997), 77 Ohio St.3d 1520.

19. On April 28, 1997, Davis filed a petition for a writ of habeas corpus in the United States District Court, Southern District of Ohio, Eastern Division. Davis was represented by John Marshall and Lori Leon.

20. On January 17, 2002, the District Court denied habeas relief. *Davis v. Bagley* (S.D. Ohio Jan. 17, 2002), No. C-1-97-402, 2002 WL 193579.

21. Davis appealed the District Court's denial of his habeas petition to the United States Court of Appeals for the Sixth Circuit. For this appeal, Davis was represented by Alan M. Freedman and Laurence E. Komp.

22. On January 29, 2007, the Sixth Circuit reversed the District Court's denial of the petition for writ of habeas corpus because the original three-judge panel failed to consider new mitigating evidence. The Sixth Circuit granted a conditional writ of habeas corpus. *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761.

23. On July 19, 2007, the District Court granted a writ of habeas corpus conditioned upon the State of Ohio granting Davis a new sentencing hearing.

24. On December 19, 2007, to comply with the mandate from the federal courts, this Court granted Davis a new sentencing hearing. Because the original three-judge panel could not reconstitute, a new three-judge panel was formed pursuant to R.C. 2929.06 and Crim.R. 25(B).

25. A resentencing hearing was conducted before this Court from September 8, 2009 through September 10, 2009. Davis was represented by Melynda W. Cook-Reich and Randall L. Porter.

26. At the conclusion of the resentencing hearing, on September 10, 2009, the new three-judge panel resentenced Davis to death. The sentencing opinion was filed on September 21, 2009.

27. Davis appealed to the Twelfth District Court of Appeals. For this appeal, Davis was represented by Laurence E. Komp, Alan M. Freedman, and John P. Parker.

28. On February 22, 2011, the Twelfth District Court of Appeals affirmed Davis' sentence of death. *State v. Davis*, Butler App. No. CA2009-10-263, 2011-Ohio-787.

29. On April 4, 2011, Davis appealed the Twelfth District Court of Appeals' decision to the Ohio Supreme Court. Davis is being represented by Laurence E. Komp, Alan M. Freedman, and John P. Parker. The record in the case was filed on April 27, 2011.

30. Davis suffered a denial or infringement of rights sufficient to render the new three-judge panel's judgment void or voidable under the Ohio Constitution and/or the United States Constitution.

31. The constitutional errors that entitle Davis to relief are not included in the record and could not have been raised on direct appeal.

II. STATEMENT OF FACTS

32. Petitioner hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

33. At approximately 7:40 p.m. on December 12, 1983, officers of the Hamilton Police Department arrived at the scene of a shooting at American Legion Post 520 (hereinafter "the Legion"). Lying on the pavement approximately six feet outside the front door of the Legion was the deceased victim, Suzette Butler. An autopsy performed the following day by the county coroner revealed that Butler had died as a result of multiple gunshot wounds to the left side of her head.

34. On the day of the shooting, Butler met her friend, Mona Aldridge, at the Legion sometime between 5:00 p.m. and 6:30 p.m. Davis arrived shortly thereafter, and eventually sat at a table with Butler and Aldridge. Apparently, Davis and Butler had cohabited for several months, but had recently separated. After a brief period of time, Davis and Butler arose from the

table and walked out the front door. Prior to leaving, Butler told Aldridge that she would be “right back” and asked Aldridge to watch her jacket, cigarettes, and drink. Several minutes later, a concerned Aldridge went to the front door of the Legion to look for Butler. Aldridge opened the door slightly and discovered Davis pointing a gun at Butler’s head. Aldridge panicked and went back inside the bar. Momentarily, others followed her into the bar saying that someone had been shot.

35. The shooting was witnessed by Reginald Denmark and Cozette Massey. The couple had been on a walk observing Christmas lights. As they were walking, they saw a man and a woman talking in front of the Legion. The man and woman did not appear to be arguing. Two shots rang out. As the woman (later identified as Butler) fell, another shot was fired. Finally, “after she was down, he bent down and shot her in the head.” Both Massey and Denmark ultimately identified Davis as the person who shot Butler.

36. It was later established that on the day of Butler’s murder, Davis had sought out Mark Lovette to “do him a favor” in exchange for sixty dollars. Along with a third party, Wade Coleman, Davis drove Lovette to a pawn shop and gave him money to purchase a handgun. Lovette purchased a Raven P .25 semi-automatic handgun and gave it to Davis. Davis again gave money to Lovette and had him purchase shells for the gun at a K-Mart store. Lovette was then dropped off. Davis subsequently discovered that the K-Mart shells did not fit the weapon. Lovette was picked up again, the shells were returned to K-Mart, and Davis drove Lovette to a local gun shop. Lovette purchased a box of PMC .25 automatic shells and gave them to Davis. Davis then loaded the gun in the presence of Lovette and Coleman and placed the gun under the driver’s seat of his car. Late that afternoon, Lovette and Coleman were dropped off separately.

III. GROUNDS FOR RELIEF

FIRST GROUND FOR RELIEF

37. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

38. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Due to the defense counsel's failure to reasonably investigate and present available, mitigating evidence regarding Davis' exemplary prison record, counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

39. The Eighth Amendment requires the sentence to consider the circumstances of the crime and the defendant's character, history and background during the penalty phase of a capital trial. *Boyd v. California* (1990), 494 U.S. 370, 377-78; *Lockett v. Ohio* (1978), 438 U.S. 586, 604. Defense counsel's duty to investigate the client's background for mitigating factors is "an indispensable component of the constitutional requirement of . . . effective representation and assistance from his lawyer." *State v. Johnson* (1986), 24 Ohio St.3d 87, 90.

40. The United States Supreme Court has provided specific guidance with respect to reasonable professional assistance during the sentencing phase of a capital case. *Rompilla v. Beard* (2005), 545 U.S. 374, 381-90, *Wiggins v. Smith* (2003), 539 U.S. 510, 521-29, *Williams v. Taylor* (2000), 529 U.S. 362, 395-97. In particular, the Court has recognized that counsel in a capital case has an "obligation to conduct a thorough investigation of the defendant's background" to determine the availability of mitigating evidence. *Williams*, 529 U.S. at 396; see also *Williams v. Anderson* (6th Cir. 2006), 460 F.3d 789, 802 ("Defense counsel's complete failure to investigate before deciding not to present mitigating evidence is deficient performance as a matter of law under *Strickland*."). Counsel's "investigations into mitigating evidence 'should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor.'" *Wiggins*, 539 U.S. at 524 (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)) (emphasis in original). The United States Supreme Court has unmistakably recognized the important of permitting capital defendants to put forth evidence of the likelihood of future good conduct at sentencing. *Ayers v. Belmontes* (2006), 549 U.S. 7, 15.

41. In *Skipper v. South Carolina* (1986), 476 U.S. 1, the trial court had excluded as irrelevant evidence of the defendant's good behavior during the period of his incarceration between arrest and trial. The Supreme Court reversed Skipper's death sentence, holding that such evidence was relevant to refute the state's allegations of future dangerousness, and noting that "any sentencing authority must predict a convicted person's probable future conduct when it engages in the process of determining what punishment to impose." *Id.* at 5 (quoting *Jurek v. Texas* (1976), 428 U.S. 262, 275). Because, in the capital context, a sentencing authority may

consider a defendant's past conduct as indicative of his probable future behavior, "evidence that the defendant would not pose a danger if spared (but incarcerated) must be considered potentially mitigating" and, pursuant to *Eddings v. Oklahoma* (1982), 455 U.S. 104, may not be excluded from the sentencer's consideration. *Skipper*, 476 U.S. at 5.

42. In *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761, the Sixth Circuit granted Davis habeas relief because during Davis' second penalty phase held in 1989, the three-judge panel erroneously excluded testimony concerning Davis' exemplary behavior on death row in the time between the two sentencing hearings. *Id.* at 770. Regarding the evidence, the Sixth Circuit stated:

Such testimony would have established that Davis was classified as an "A" prisoner, indicating that he had no discipline or conduct problems; that he was the clerk on death row for the unit manager and helped conduct tours of death row; and that he had created no problems for other inmates or for security personnel and had no conduct write-ups. Davis worked directly for Oscar McGraw, the unit manager for death row, who complimented Davis's positive attitude and pleasant personality. Herb Wendler, Davis's case manager, observed that Davis was cooperative and courteous, that he had been given much more freedom than other inmates on death row, and that he had been placed in various positions of trust within the unit.

Id. at 773. The Sixth Circuit determined that based on the record in the case, this evidence was "without doubt . . . highly relevant to the single aggravating factor relied upon by the state—that future dangerousness should keep Davis on death row." *Id.*

43. Despite the Sixth Circuit's recognition of this evidence's importance, the defense called only one witness regarding Davis' prison record, Scott Nowak, Davis' case manager. Through Mr. Nowak, the defense introduced only Exhibit J, a two-page institutional summary prepared by Mr. Nowak. (Tr. Vol. III, p.219). The institutional summary stated that Davis had not been to disciplinary control, that Davis had only received one conduct report since 1984, that Davis currently worked as a porter, that he had completed several programs and community service projects, and that in 2006, Davis was moved to the extended privilege unit. Neither the testimony nor exhibits covered the information cited in the Sixth Circuit's opinion.

44. At his second sentencing hearing in 1989, Davis' counsel proffered the evidence the Sixth Circuit would later recognize as compelling. Ex. A, 8/4/1989 Transcript pages 1–5. The Sixth Circuit ordered a new penalty phase because the original panel did not allow the defense to present this evidence, yet counsel at the third sentencing hearing held in 2009 did not use or consider using this evidence.

45. Moreover, Davis has attested that he was never asked by his attorneys for names of other guards, caseworkers or other prison personnel. Ex. B, Affidavit of Von Clark Davis, ¶4. Had his attorneys asked, he could have provided them names of favorable witnesses who could have been called to testify. Particularly those who knew him the last four years, these witnesses would have been important for the trier of fact to evaluate whether Davis was a risk if released and how he has responded to authority over the years.

46. There cannot be a reasonable trial strategy involved in not even trying to talk to favorable witnesses. The reason the case got reversed was because this evidence existed. The case was reversed and new counsel completely ignored the evidence. Defense counsel could have either tried to interview the witnesses, tried to get a court order to interview the witnesses, or subpoenaed the witnesses to testify. Ex. C, Affidavit of Kort Gatterdam. Defense counsel did nothing. Davis's expert has opined that the failure to investigate and present this evidence constitutes ineffective assistance of counsel. Ex. D, Affidavit of Diane Menashe.

47. R.C. 2929.04(C) states: "The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death." This provision "evinces the legislature's intent that a defendant in a capital case be given wide latitude to introduce any evidence the defendant considers to be mitigating." *State v. Steffen* (1987), 31 Ohio St.3d 111, paragraph two of the syllabus. According to the United States Supreme Court, in capital cases, "the sentencer may not refuse to consider or be precluded from considering any relevant mitigating evidence." *Skipper*, 476 U.S. at 4.

48. Defense counsel failed to reasonably and competently investigate, prepare and present available mitigating evidence at the penalty phase. Counsel's deficient performance precluded the sentencing panel from considering and giving weight and effect to available, compelling mitigation evidence in the determination of Davis' sentence. Counsel's failure to reasonably investigate, prepare and present this mitigating evidence cannot be viewed as a reasonable strategic decision, but rather must be viewed as a dereliction of duty that prejudiced Davis. *Wiggins*, 539 U.S. at 525 (stating that a *Strickland* violation is established where the scope of an attorney's investigation into mitigating evidence prior to trial was "unreasonable in light of what" counsel knew about their client).

49. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: A, 8/4/1989 Transcript pages 1–5; B, Affidavit of Von Clark Davis; C, Affidavit of Kort Gatterdam; D, Affidavit of Diane Menashe.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eight, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; R.C. 2929.04; *Ayers v. Belmontes* (2006), 549 U.S. 7; *Rompilla v. Beard* (2005), 545 U.S. 374; *Wiggins v. Smith* (2003), 539 U.S. 510; *Williams v. Taylor* (2000), 529 U.S. 362; *Boyd v. California* (1990), 494 U.S. 370; *Skipper v. South Carolina* (1986), 476 U.S. 1; *Strickland v. Washington* (1984), 466 U.S. 668; *Eddings v. Oklahoma* (1982), 455 U.S. 104; *Lockett v. Ohio* (1978), 438 U.S. 586; *Jurek v. Texas* (1976), 428 U.S. 262; *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761; *State v. Steffen* (1987), 31 Ohio St.3d 111; *State v. Johnson* (1986), 24 Ohio St.3d 87; *State v. Jackson* (1980), 64 Ohio St.2d 107.

SECOND GROUND FOR RELIEF

50. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

51. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Due to the defense counsel's failure to reasonably investigate and present available, mitigating evidence regarding Davis' exemplary prison record, counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

52. The Eighth Amendment requires the sentence to consider the circumstances of the crime and the defendant's character, history and background during the penalty phase of a capital trial. *Boyd v. California* (1990), 494 U.S. 370, 377–78; *Lockett v. Ohio* (1978), 438 U.S. 586, 604. Defense counsel's duty to investigate the client's background for mitigating factors is "an indispensable component of the constitutional requirement of . . . effective representation and assistance from his lawyer." *State v. Johnson* (1986), 24 Ohio St.3d 87, 90.

53. The United States Supreme Court has provided specific guidance with respect to reasonable professional assistance during the sentencing phase of a capital case. *Rompilla v. Beard* (2005), 545 U.S. 374, 381–90, *Wiggins v. Smith* (2003), 539 U.S. 510, 521–29, *Williams v. Taylor* (2000), 529 U.S. 362, 395–97. In particular, the Court has recognized that counsel in a capital case has an "obligation to conduct a thorough investigation of the defendant's background" to determine the availability of mitigating evidence. *Williams*, 529 U.S. at 396; *see also Williams v. Anderson* (6th Cir. 2006), 460 F.3d 789, 802 ("Defense counsel's complete failure to investigate before deciding not to present mitigating evidence is deficient performance as a matter of law under *Strickland*."). Counsel's "investigations into mitigating evidence 'should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor.'" *Wiggins*, 539 U.S. at 524 (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)) (emphasis in original). The United States Supreme Court has unmistakably recognized the importance of permitting capital defendants to put forth evidence of the likelihood of future good conduct at sentencing. *Ayers v. Belmontes* (2006), 549 U.S. 7, 15.

54. In *Skipper v. South Carolina* (1986), 476 U.S. 1, the trial court had excluded as irrelevant evidence of the defendant's good behavior during the period of his incarceration between arrest and trial. The Supreme Court reversed Skipper's death sentence, holding that such evidence was relevant to refute the state's allegations of future dangerousness, and noting that "any sentencing authority must predict a convicted person's probable future conduct when it engages in the process of determining what punishment to impose." *Id.* at 5 (quoting *Jurek v. Texas* (1976), 428 U.S. 262, 275). Because, in the capital context, a sentencing authority may consider a defendant's past conduct as indicative of his probable future behavior, "evidence that the defendant would not pose a danger if spared (but incarcerated) must be considered potentially

mitigating” and, pursuant to *Eddings v. Oklahoma* (1982), 455 U.S. 104, may not be excluded from the sentencer's consideration. *Skipper*, 476 U.S. at 5.

55. In *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761, the Sixth Circuit granted Davis habeas relief because during Davis' second penalty phase held in 1989, the three-judge panel erroneously excluded testimony concerning Davis' exemplary behavior on death row in the time between the two sentencing hearings. *Id.* at 770. Regarding the evidence, the Sixth Circuit stated:

Such testimony would have established that Davis was classified as an “A” prisoner, indicating that he had no discipline or conduct problems; that he was the clerk on death row for the unit manager and helped conduct tours of death row; and that he had created no problems for other inmates or for security personnel and had no conduct write-ups. Davis worked directly for Oscar McGraw, the unit manager for death row, who complimented Davis's positive attitude and pleasant personality. Herb Wendler, Davis's case manager, observed that Davis was cooperative and courteous, that he had been given much more freedom than other inmates on death row, and that he had been placed in various positions of trust within the unit.

Id. at 773. The Sixth Circuit determined that based on the record in the case, this evidence was “without doubt . . . highly relevant to the single aggravating factor relied upon by the state—that future dangerousness should keep Davis on death row.” *Id.*

56. Despite the Sixth Circuit's recognition of this evidence's importance, the defense called only one witness regarding Davis' prison record, Scott Nowak, Davis' case manager. Through Mr. Nowak, the defense introduced only Exhibit J, a two-page institutional summary prepared by Mr. Nowak. (Tr. Vol. III, p.219). The institutional summary stated that Davis had not been to disciplinary control, that Davis had only received one conduct report since 1984, that Davis currently worked as a porter, that he had completed several programs and community service projects, and that in 2006, Davis was moved to the extended privilege unit.

57. Mr. Nowak admitted reviewing Davis' unit file, which contained Davis' disciplinary record, program participation, and any type of classification changes, like security or job changes. (Tr. Vol. III, p.220). Exhibit E exemplifies what was contained in Davis' unit file, and should have been presented to the three-judge panel. Included within these records is a certificate of completion for a twelve week stress management seminar; job evaluations indicating Davis is “a real good worker” and “has demonstrated excellent adjustment”; classification forms dating back to 1986 showing Davis' responsibility and lack of disciplinary reports; school records which consist of records dating back to junior high school, Davis' GED certificate, the classes Davis has enrolled in while incarcerated including college courses; and Davis' application for members with the Vietnam Veterans of America.

58. Davis had additional information which he informed his attorneys about but which they failed to present. Ex. B, Affidavit of Von Clark Davis, ¶3.

59. Davis's expert has reviewed the record, the attached exhibits and in her professional opinion, defense counsel was ineffective in not presenting this evidence. Ex. D, Affidavit of Diane Menashe.

60. R.C. 2929.04(C) states: "The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death." This provision "evinces the legislature's intent that a defendant in a capital case be given wide latitude to introduce any evidence the defendant considers to be mitigating." *State v. Steffen* (1987), 31 Ohio St.3d 111, paragraph two of the syllabus. According to the United States Supreme Court, in capital cases, "the sentencer may not refuse to consider or be precluded from considering any relevant mitigating evidence." *Skipper*, 476 U.S. at 4.

61. Defense counsel failed to reasonably and competently investigate, prepare and present available mitigating evidence at the penalty phase. Counsel's deficient performance precluded the sentencing panel from considering and giving weight and effect to available, compelling mitigation evidence in the determination of Davis' sentence. Counsel's failure to reasonably investigate, prepare and present this mitigating evidence cannot be viewed as a reasonable strategic decision, but rather must be viewed as a dereliction of duty that prejudiced Davis. *Wiggins*, 539 U.S. at 525 (stating that a *Strickland* violation is established where the scope of an attorney's investigation into mitigating evidence prior to trial was "unreasonable in light of what" counsel knew about their client).

62. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: B, Affidavit of Von Clark Davis; D, Affidavit of Diane Menashe; E, Prison Records.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; R.C. 2929.04; *Ayers v. Belmontes* (2006), 549 U.S. 7; *Rompilla v. Beard* (2005), 545 U.S. 374; *Wiggins v. Smith* (2003), 539 U.S. 510; *Williams v. Taylor* (2000), 529 U.S. 362; *Boyd v. California* (1990), 494 U.S. 370; *Skipper v. South Carolina* (1986), 476 U.S. 1; *Strickland v. Washington* (1984), 466 U.S. 668; *Eddings v. Oklahoma* (1982), 455 U.S. 104; *Lockett v. Ohio* (1978), 438 U.S. 586; *Jurek v. Texas* (1976), 428 U.S. 262; *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761; *State v. Steffen* (1987), 31 Ohio St.3d 111; *State v. Johnson* (1986), 24 Ohio St.3d 87; *State v. Jackson* (1980), 64 Ohio St.2d 107.

THIRD GROUND FOR RELIEF

63. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

64. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Counsel's preparation and strategy to call Cynthia Mausser, the Chair of the Ohio Parole Board, harmed Davis because Ms. Mausser testified Davis could be paroled if he received a sentence less than death. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

65. Counsel's decision to present testimony may be considered a strategic one, but for the decision to be reasonable, it must be made after undertaking a full investigation. *Combs v. Coyle* (6th Cir. 2000), 205 F.3d 269, 288; *see also Strickland*, 466 U.S. at 691 ("[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary."); *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991) ("[O]ur case law rejects the notion that a 'strategic' decision can be reasonable when the attorney has failed to investigate his options and make a reasonable choice between them."). When calling an expert witness, counsel should know the expert's opinion on the ultimate issue and prepare accordingly. *Combs*, 204 F.3d at 288.

66. At the opening of the penalty phase, defense counsel stated that based on the applicable law, if the panel sentenced Davis to a 30-to-life sentence, he would be entitled to parole in 6 years. (Tr. Vol. I, p.36). Counsel stated, however, that Ms. Mausser "will testify based upon his prior record, the fact that he committed the second murder, while he was still on parole from the first murder, that he will not be paroled." (Tr. Vol. I, p.36-37). Counsel further stated that if the panel "decide[d] to impose life with parole eligibility 'til he has served 30, we will note from Ms. Mausser's testimony that he will never be paroled." (Tr. Vol. I, p.38). Ms. Mausser never made those statements to defense counsel. Ex. F, Affidavit of Cynthia Mausser.

67. Prior to Ms. Mausser taking the stand, the prosecution objected arguing that Ms. Mausser should not testify because it would be irrelevant and speculative. (Tr. Vol. II, p.133-35). The prosecutor stated that he spoke with Ms. Mausser prior to trial, and that Ms. Mausser told the prosecutor "that she would not be in a position to be able to testify whether or not she would vote for parole or not vote for parole, it would be improper for her to say that she could not say what a majority of the board would do as they are not here." (Tr. Vol. II, p.133). In response, defense counsel claimed: "we will be in a position of surprise and affirmative damage if she testifies as the prosecution is suggesting because we, in fact, interviewed her four months ago and Ms. Cook will testify, if necessary, that that is not what we were told." (Tr. Vol. II, p.137). Defense counsel further stated: "It is my belief based upon our conversation with her through three or four months ago, is that she will say based upon similar factors, that she has seen in other cases, she would not anticipate that he would ever be paroled." (Tr. Vol. II, p.140).

Based on these affirmations, the panel permitted Ms. Mausser to testify. (Tr. Vol. II, p.143–45). Ms. Mausser has indicated by affidavit that she did not tell defense counsel that Mr. Davis would never be paroled. Ex. F, Affidavit of Cynthia Mausser.

68. Ms. Mausser testified that the average amount of time served for an aggravated murder conviction is about 27 years. (Tr. Vol. II, p.171). Ms. Mausser testified that once a person becomes parole-eligible, he would be considered for parole at intervals ranging from one to ten years for the rest of his life. (Tr. Vol. II, p.169, 180). Ms. Mausser testified that she did not have all the information she needed to give an opinion about how she would vote on Mr. Davis's parole. (*Id.* at 181–82, 184, 188). Additionally, she did not know how any other parole board member would vote on the Davis case when he came up for parole. (*Id.* at 184, 188).

69. As the panel recognized, Ms. Mausser could not definitively state if or when Davis might be paroled if he received a sentence less than death. Ex. G, 9/21/2009 Sentencing Opinion, p.6–7. The panel deemed Ms. Mausser's testimony as "highly speculative and unconvincing and entitled to no weight." *Id.* at p.10. Thus, the promises made by defense counsel in the opening statement and before Ms. Mausser's testimony regarding Davis' parole eligibility went unfulfilled, and the panel was left to believe that if a non-death sentence were to be imposed, Davis could be paroled.

70. Ms. Mausser's affidavit indicates that contrary to the record made by defense counsel, Mausser did not agree to testify Davis would never be paroled. Ex. F, Affidavit of Cynthia Mausser. She would have been able to give a better opinion if she had the proper materials provided to her, but defense counsel did not provide her what she needed. *Id.* Despite the speculative and harmful nature of her testimony, defense counsel had her testify anyway. Certainly defense counsel is not supposed to present evidence that assists their client in receiving the death penalty.

71. Mr. Davis discussed the parole board testimony with his attorneys and mitigation specialist prior to the sentencing hearing. Ex. B, Affidavit of Von Clark Davis; Ex. H, Redacted Mitigation Write-Up. He indicated he did not want this testimony presented in his case. Ex. B, Affidavit of Von Clark Davis; Ex. H, Redacted Mitigation Write-Up. His attorneys ignored his request.

72. Mr. Davis' expert has reviewed Ms. Mausser's affidavit and the record in this case. Ms. Menashe has opined that promising the panel a witness who could guarantee no parole when no such witness existed was harmful to Mr. Davis and constitutes ineffective assistance of counsel. Ex. D, Affidavit of Diane Menashe.

73. Furthermore, at the end of her testimony, Ms. Mausser wanted to correct an answer she gave earlier, and began to say: "I think it might be unusual" before being stopped by the panel because no question had been asked. (Tr. Vol. II, p.189). Defense counsel was ineffective for failing to follow up on an obvious attempt by Ms. Mausser to correct her testimony. Defense counsel never requested permission to ask Ms. Mausser on redirect whether she had anything to add or correct to her previous testimony. Had defense counsel done so, Ms. Mausser could have indicated she actually has voted on cases where a person with death specifications came up for parole. Ex. F, Affidavit of Cynthia Mausser. How and why she voted on those cases

(particularly if she voted not to parole the inmate) would have been important information for the panel in evaluating the likelihood of Davis ever being paroled. Defense counsel's failure to follow up on this constitutes ineffective assistance of counsel. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

74. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: B, Affidavit of Von Clark Davis; D, Affidavit of Diane Menashe; F, Affidavit of Cynthia Mausser; G, 9/21/2009 Sentencing Opinion; H, Redacted Mitigation Write-Up.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; *Strickland v. Washington* (1984), 466 U.S. 668; *Combs v. Coyle* (6th Cir. 2000), 205 F.3d 269; *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991); *State v. Jackson* (1980), 64 Ohio St.2d 107.

FOURTH GROUND FOR RELIEF

75. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

76. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Counsel's preparation and strategy to call psychologist, Dr. Robert Smith, harmed Davis because Dr. Smith left the panel with the impression that due to Davis' borderline personality disorder, if Davis were ever released from prison, and no longer in a structured environment, he could kill again. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

77. Counsel's decision to present testimony may be considered a strategic one, but for the decision to be reasonable, it must be made after undertaking a full investigation. *Combs v. Coyle* (6th Cir. 2000), 205 F.3d 269, 288; *see also Strickland*, 466 U.S. at 691 ("[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary."); *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991) ("[O]ur case law rejects the notion that a 'strategic' decision can be reasonable when the attorney has failed to investigate his options and make a reasonable choice between them."). When calling an expert witness, counsel should know the expert's opinion on the ultimate issue and prepare accordingly. *Combs*, 204 F.3d at 288.

78. After Cynthia Mausser could not guarantee that Davis would not be paroled if he received a non-death sentence, the defense called Dr. Smith as an expert witness in the areas of clinical psychology and addiction. (Tr. Vol. III, p.229, 239–40). Before testifying, Dr. Smith visited with Davis twice, interviewed family and friends, reviewed relevant records, and reviewed Davis' criminal history. (Tr. Vol. III, p.241). As a result, Dr. Smith was able to complete a comprehensive psychosocial history, a diagnostic workup, and a mental status examination. (Tr. Vol. III, p.242).

79. In Dr. Smith's opinion, within a reasonable degree of psychological certainty, Davis suffered from two psychological disorders at the time of the offense, alcohol dependence and borderline personality disorder. (Tr. Vol. III, p.248). Dr. Smith also testified regarding a previous evaluation conducted in 1984, where evidence was found of Davis having an explosive psychiatric disorder. (Tr. Vol. III, p.260–61). Dr. Smith stated that one of the characteristics of a borderline is an unwarranted aggressive behavior that comes about with minor provocation. (Tr. Vol. III, p.261). Regarding the borderline personality disorder, Dr. Smith opined:

If you put me in a very structured environment, with clear-cut rules and people who enforce those rules every day, the same way, I will adapt and I will adjust. My problem with borderline personality disorder is if I am in the community where I have no clear structure and I am reacting to whatever is happening to me throughout the day.

(Tr. Vol. III, p.258). Dr. Smith further expounded:

The way to understand borderline personality disorder is picture someone who truly in many ways does not develop a sense of self. They don't really have an identity. And so what they do is they go through life reacting rather than thinking and acting. . . . Up and down, sad, angry, frightened, reacting to what is in front of them at the present, really not any sustained emotion. Impulsivity that is severe, they act and then think about it afterwards. They are not really considering their actions and what the consequences will be, what the other options are, the pros and cons, they act out again based on what they are feeling.

(Tr. Vol. III, p.263). Dr. Smith testified that this is a chronic disorder, and is still present in Davis. (Tr. Vol. III, p.263, 278).

80. Defense counsel failed to prepare Dr. Smith for the fact that parole was going to be a critical issue. Ex. I, Affidavit of Dr. Bob Smith. They failed to have him address how Mr. Davis had changed over time and even as a borderline personality disorder, he could adapt in society. Instead, they focused on his psychological state of mind in 1984, which left the panel with the impression that he was and is still dangerous. This only contributed to the panel imposing a death sentence. Ex. G, 9/21/2009 Sentencing Opinion, p.7-8. Dr. Smith's affidavit demonstrates that had counsel discussed these topics with him and asked him pertinent questions at the hearing, he would have been able to provide beneficial, instead of harmful information for Mr. Davis.

81. Defense counsel also failed to consider that psychological evidence was rejected in two previous sentencing hearings involving Mr. Davis. Ex. J, 6/11/1984 Sentencing Opinion; Ex. K, 8/10/1989 Sentencing Opinion. In fact, the second panel actually used the psychological testimony to help bolster their decision to impose death. Ex. D, Affidavit of Diane Menashe; Ex. K, 8/10/1989 Sentencing Opinion, p.2.

82. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: D, Affidavit of Diane Menashe; Ex. G, 9/21/2009 Sentencing Opinion; I, Affidavit of Dr. Bob Smith; Ex. J, 6/11/1984 Sentencing Opinion; Ex. K, 8/10/1989 Sentencing Opinion.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; *Strickland v. Washington* (1984), 466 U.S. 668; *Combs v. Coyle* (6th Cir. 2000), 205 F.3d 269; *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991); *State v. Jackson* (1980), 64 Ohio St.2d 107.

FIFTH GROUND FOR RELIEF

83. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

84. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Counsel's decision not to call mitigation specialist/investigator, John Lee, to testify and/or to present exhibits regarding unavailable mitigation witnesses harmed Davis because the panel was not presented with relevant and compelling evidence of Davis' character, history and background. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

85. The Eighth Amendment requires the sentence to consider the circumstances of the crime and the defendant's character, history and background during the penalty phase of a capital trial. *Boyd v. California* (1990), 494 U.S. 370, 377–78; *Lockett v. Ohio* (1978), 438 U.S. 586, 604. Defense counsel's duty to investigate the client's background for mitigating factors is "an indispensable component of the constitutional requirement of . . . effective representation and assistance from his lawyer." *State v. Johnson* (1986), 24 Ohio St.3d 87, 90.

86. The United States Supreme Court has provided specific guidance with respect to reasonable professional assistance during the sentencing phase of a capital case. *Rompilla v. Beard* (2005), 545 U.S. 374, 381–90, *Wiggins v. Smith* (2003), 539 U.S. 510, 521–29, *Williams v. Taylor* (2000), 529 U.S. 362, 395–97. In particular, the Court has recognized that counsel in a capital case has an "obligation to conduct a thorough investigation of the defendant's background" to determine the availability of mitigating evidence. *Williams*, 529 U.S. at 396; *see also Williams v. Anderson* (6th Cir. 2006), 460 F.3d 789, 802 ("Defense counsel's complete failure to investigate before deciding not to present mitigating evidence is deficient performance as a matter of law under *Strickland*."). Counsel's "investigations into mitigating evidence 'should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor.'" *Wiggins*, 539 U.S. at 524 (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)) (emphasis in original). Not only must counsel investigate all reasonably available mitigating evidence, but counsel must then use that evidence to "to counter the State's evidence of aggravated culpability with evidence in mitigation." *Rompilla*, 545 U.S. at 380 – 81.

87. R.C. 2929.04(C) states: "The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death." This provision "evinces the legislature's intent that a defendant in a capital case be given wide latitude to introduce any evidence the defendant considers to be mitigating." *State v. Steffen* (1987), 31 Ohio St.3d 111, paragraph two of the syllabus. According to the United States Supreme Court, in capital cases, "the sentencer may not refuse to consider or be precluded from considering any relevant mitigating evidence." *Skipper v. South Carolina* (1986), 476 U.S. 1, 4.

88. In the exhibit book prepared by defense counsel, Exhibits B–I related to four witnesses, Elizabeth Crawford, Dr. Charles Flowers, Milton Flowers, and Fannie Whiteside. All four witnesses were unavailable to testify as two were deceased and the other two were incompetent. These exhibits and evidence about the affiants being either deceased or incompetent are attached to this petition. Ex. L, Sentencing Hearing Exhibits B–I.

89. Defense counsel intended to call mitigation specialist/investigator, John Lee, as he had previously interviewed the four witnesses. (Tr. Vol. I, p.65–71). However, Mr. Lee was never called to testify and the exhibits at issue were never introduced.

90. The attached mitigation write-ups and affidavit provide critical substantive information about Mr. Davis and his family upbringing. It was not cumulative of other evidence and it was necessary to give the trier of fact a complete picture of where Mr. Davis came from. Defense counsel recognized its importance by having a witness prepared to testify and the exhibits marked for introduction into evidence. For reasons unknown, when it came time to introducing the exhibits, defense counsel withdrew all of the exhibits. (Tr. Vol. III, p. 314).

91. Mr. Davis’s expert has reviewed the exhibits and the trial record and has opined that it was ineffective assistance to not present the evidence at the penalty phase hearing. Ex. D, Affidavit of Diane Menashe.

92. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: D, Affidavit of Diane Menashe; L, Sentencing Hearing Exhibits B–I.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; R.C. 2929.04; *Ayers v. Belmontes* (2006), 549 U.S. 7; *Rompilla v. Beard* (2005), 545 U.S. 374, *Wiggins v. Smith* (2003), 539 U.S. 510, *Williams v. Taylor* (2000), 529 U.S. 362; *Boyd v. California* (1990), 494 U.S. 370; *Skipper v. South Carolina* (1986), 476 U.S. 1; *Strickland v. Washington* (1984), 466 U.S. 668; *Eddings v. Oklahoma* (1982), 455 U.S. 104; *Lockett v. Ohio* (1978), 438 U.S. 586; *Jurek v. Texas* (1976), 428 U.S. 262; *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761; *State v. Steffen* (1987), 31 Ohio St.3d 111; *State v. Johnson* (1986), 24 Ohio St.3d 87; *State v. Jackson* (1980), 64 Ohio St.2d 107.

SIXTH GROUND FOR RELIEF

93. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

94. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Counsel knew that Judge Andrew Nastoff served as a prosecutor in the death penalty case of Davis' nephew, Lahray Thompson, and advocated for Mr. Thompson's death, yet counsel failed to seek the removal of Judge Nastoff. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

95. "It is well settled that a criminal trial before a biased judge is fundamentally unfair and denies a defendant due process of law." *State v. LaMar*, 95 Ohio St.3d 181, 2002-Ohio-2128, ¶ 34 (citing *Rose v. Clark* (1986), 478 U.S. 570, 577; *Tumey v. Ohio* (1927), 273 U.S. 510, 534). According to the Ohio Supreme Court, the removal of a judge is necessary "to avoid even an appearance of bias, prejudice, or impropriety, and to ensure the parties, their counsel, and the public the unquestioned neutrality of an impartial judge." *In re Disqualification of Floyd*, 101 Ohio St.3d 1215, 2003-Ohio-7354, ¶ 10; *see also State ex rel. Turner v. Marshall* (1931), 123 Ohio St. 586, 587 ("[I]t is of vital importance that the litigant believe that he will have a fair trial.").

96. During the mitigation hearing, Davis' sister, Carol Smith, testified on Davis' behalf. Ms. Smith revealed that she has a son by the name of Lahray Thompson, and that Mr. Thompson had been convicted of aggravated murder in a capital case. (Tr. Vol. II, p.126)

97. Following Ms. Smith's testimony, Judge Nastoff disclosed that he was a member of the prosecution team against Mr. Thompson and had argued to the jury that he should receive the death sentence. (Tr. Vol. II, p.131). Indeed, the motions filed pretrial in Mr. Thompson's case confirm that Judge Nastoff was actively seeking the death penalty against Mr. Thompson. Ex. M, Prosecution Memorandums in Opposition filed in *State v. Lahray Thompson*. The transcript from Mr. Thompson's trial confirms that Judge Nastoff argued that Mr. Thompson was eligible for the death penalty. Ex. N, *State v. Lahray Thompson Trial Tr.* 1188–92. The transcript further reveals that he called Mr. Thompson a liar. *Id.* 1205–07.

98. Davis' counsel stated that the defense already knew Judge Nastoff was involved in the prosecution, but made the decision not to seek his recusal. (Tr. Vol. II, p.132). Counsel knew that Judge Nastoff had previously sought the death penalty against a member of Davis' family, yet did not seek to remove Judge Nastoff from the case. As a prosecutor in Mr. Thompson's case, Judge Nastoff obtained knowledge of Mr. Thompson's family, which included Davis and some of his witnesses. Further, Judge Nastoff had already argued in favor of sentencing Davis' nephew to death, and believed that Mr. Thompson was a liar. Thus, to avoid even the appearance of bias, prejudice, or impropriety, and to ensure the unquestioned neutrality of an impartial judge to the parties, their counsel, and the public, Judge Nastoff should not have

been deciding Davis' fate and instead should have been removed from the case. Ex. D, Affidavit of Diane Menashe.

99. Mr. Davis's attorneys never discussed the conflict issue with Mr. Davis. Ex. B, Affidavit of Von Clark Davis. Had they done so, Mr. Davis would have requested that Judge Nasthoff recuse himself. Mr. Davis did not find out about the issue until after his sister testified at the penalty phase hearing.

100. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: B, Affidavit of Von Clark Davis; D, Affidavit of Diane Menashe; M, Prosecution Memorandums in Opposition filed in *State v. Lahray Thompson*; N, *State v. Lahray Thompson* Trial Transcript.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; *Strickland v. Washington* (1984), 466 U.S. 668; *Rose v. Clark* (1986), 478 U.S. 570; *Tumey v. Ohio* (1927), 273 U.S. 510; *In re Disqualification of Floyd*, 101 Ohio St.3d 1215, 2003-Ohio-7354; *State v. LaMar*, 95 Ohio St.3d 181, 2002-Ohio-2128; *State v. Jackson* (1980), 64 Ohio St.2d 107; *State ex rel. Turner v. Marshall* (1931), 123 Ohio St. 586.

SEVENTH GROUND FOR RELIEF

101. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

102. Davis' sentence is void and/or voidable because defense counsel provided ineffective assistance at the penalty phase and as a result, Davis was sentenced to death. Counsel suggested to Davis that life without the possibility of parole was a sentencing option at his third sentencing hearing, but because the law in effect at the time of Davis' offense was being applied, life without the possibility of parole was not available. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

103. When represented by counsel, "[a] criminal defendant has a right to expect at least that his attorney will review the charges with him by explaining the elements necessary for the government to secure a conviction, discuss the evidence as it bears on those elements, and explain the sentencing exposure the defendant will face as a consequence of exercising each of the options available." *Smith v. United States* (6th Cir. 2003), 348 F.3d 545, 553; *see also Magana v. Hofbauer* (6th Cir. 2001), 263 F.3d 542, 550 ("[Counsel's] complete ignorance of the relevant law under which his client was charged, and his consequent gross misadvice to his client regarding the client's potential prison sentence, certainly fell below an objective standard of reasonableness under prevailing professional norms."). Misinformation concerning parole eligibility can be ineffective assistance of counsel. *Sparks v. Sowders* (6th Cir. 1988), 852 F.2d 882, 885 (holding misadvice concerning parole eligibility can amount to ineffective assistance of counsel and granting evidentiary hearing in case where attorney advised defendant that he could receive sentence of life without parole when in reality the defendant did not face such consequence).

104. Mr. Davis believed that life without parole was a potential sentence option. Ex. B, Affidavit of Von Clark Davis; Ex. H, Redacted Mitigation Write-Up. Defense counsel failed to clearly state that life without parole was not a possible option in this sentencing phase. Ex. B, Affidavit of Von Clark Davis.

105. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: B, Affidavit of Von Clark Davis; H, Redacted Mitigation Write-Up.

Legal Authority in Support of Ground for Relief: Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; *Strickland v. Washington* (1984), 466 U.S. 668; *Smith v. United States* (6th Cir. 2003), 348 F.3d 545; *Magana v. Hofbauer* (6th Cir. 2001), 263 F.3d 542; *Sparks v. Sowders* (6th Cir. 1988), 852 F.2d 882; *State v. Jackson* (1980), 64 Ohio St.2d 107.

EIGHTH GROUND FOR RELIEF

106. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

107. Davis' convictions and sentences are void or voidable because defense counsel provided ineffective assistance during his capital trial. Davis' original trial attorneys did not advise Davis of the collateral consequence of his waiver of a jury trial. Counsel did not provide objectively reasonable assistance and Petitioner was prejudiced as a result of this failure. *Strickland v. Washington* (1984), 466 U.S. 668. Davis was denied his right to effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

108. A defendant should have the right to make a decision regarding a jury waiver based on the evidence known to him that may be presented. This is the essence of a knowing, intelligent, and voluntary waiver. *Patton v. United States* (1930), 281 U.S. 276, 312–13; *Adams v. United States ex rel. McCann* (1942), 317 U.S. 269, 275, 277–78. The Constitution demands “the utmost solicitude of which courts are capable and canvassing the matter with the accused to make sure he has a full understanding.” *Boykin v. Alabama* (1964), 395 U.S. 238, 243–44.

109. In *Padilla v. Kentucky* (2010), 130 S.Ct. 1382, the United States Supreme Court required a defendant to be advised of the collateral consequences of his plea. Such collateral or remedial consequences would include that Davis would be subject to unfavorable changes in the law that benefit the State, and that he could not take advantage of favorable changes of the law.

110. On May 8, 1984, Davis waived his right to trial by jury and elected to be tried by a three-judge panel consisting of Judges Henry J. Bruewer, William R. Stitsinger, and John R. Moser. Ex. O, Jury Waiver. However, Davis was not advised that once he waived a jury, he would forever be locked into that waiver and even if his case came back for retrial after appeal, he could not have a jury trial. This would have affected Mr. Davis's decision to waive a jury. Ex. B, Affidavit of Von Clark Davis.

111. Additionally, Mr. Davis was not advised that the jury waiver applied not only to this panel of judges, but also to any new panel of judges or even one different judge that might hear the case later if his case was reversed on appeal. *Id.* He was not informed that if death penalty law changed, he would not get the benefit of those changes because he had waived his right to a jury trial. *Id.*

112. Davis was not informed that if death penalty law changed, he would not get the benefit of those changes because he had waived his right to a jury trial. *Id.*

113. The aforementioned collateral consequences of his jury waiver were not explained to Mr. Davis. Had he been properly advised, he would not have waived a jury back in 1984.

114. Davis supports this ground with evidence dehors the record that contains sufficient operative facts to demonstrate a lack of competent counsel and prejudice that resulted from that ineffectiveness. *State v. Jackson* (1980), 64 Ohio St.2d 107, 111. Davis must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Supporting Exhibits: B, Affidavit of Von Clark Davis; O, Jury Waiver.

Legal Authority in Support of Ground for Relief: Sixth and Fourteenth Amendments to the United States Constitution; Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution; *Padilla v. Kentucky* (2010), 130 S. Ct. 1382; *Strickland v. Washington* (1984), 466 U.S. 668; *Boykin v. Alabama* (1964), 395 U.S. 238, 243–44; *Adams v. United States ex rel. McCann* (1942), 317 U.S. 269; *Patton v. United States* (1930), 281 U.S. 276; *State v. Jackson* (1980), 64 Ohio St.2d 107.

NINTH GROUND FOR RELIEF

115. Davis hereby incorporates by reference all previous paragraphs as if fully rewritten herein.

116. Davis' judgment and sentence are void or voidable because Ohio's post-conviction procedures do not provide an adequate corrective process, in violation of the constitution. Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution.

117. In theory, post-conviction offers a convicted defendant an opportunity to test the constitutional validity of his conviction and sentence. An adequate corrective process should be "swift and simply and easily invoked," should "eschew rigid and technical doctrines of res judicata of forfeiture, waiver or default," and should "provide for full fact hearings to resolve disputed factual issues." *Case v. Nebraska* (1965), 381 U.S. 336, 346–47 (Brennan, J., concurring); *see also Goldberg v. Kelly* (1970), 397 U.S. 254; *Evitts v. Lucey* (1985), 469 U.S. 387. This minimum standard for state post-conviction proceedings are not fulfilled by the cursory, inadequate, and ineffective process provided for in the relevant Ohio statutes, nor do the state courts, in practice, provide any meaningful review in these proceedings. Since 1982, only one death row inmate has been granted relief from a trial court on a post-conviction petition. *See State v. Barnes* (Lucas C.P. May 17, 1991), No. CR-83-5911.

118. The text of the statute provides that a petitioner must include affidavits or evidence dehors the record in support of the claims in a petition. R.C. 2953.21(A). It is from the face of the petition that a trial court must determine if a hearing is required. *State v. Cooperrider* (1984), 4 Ohio St.3d 226. All this must be done without the benefit of the discovery processes available to every other civil litigant. Without this access, Ohio's post-conviction process imposes an impossible pleading standard on petitioners.

119. Rule 35 of Criminal Procedure further curtails the post-conviction process. Ohio R. Crim. P. 35(A) demands that each cause of action contained in a post-conviction petition not exceed three pages. The Staff Notes to the amendment state the purpose of this is to "introduce some uniformity in post-conviction relief proceedings and aid in the administration of justice." Uniformity in the post-conviction process may be a rational goal; however, it cannot be achieved at the expense of criminal defendants who are now facing death. If the need for uniformity in post-conviction cases is balanced against the requirement that capital cases be afforded the highest degree of due process, the only acceptable, and constitutionally sound, resolution is to protect due process rights.

120. In Ohio, every aspect of post-conviction review is discretionary. An evidentiary hearing on the petition is not automatic; instead the trial court must first determine "whether there are substantive grounds for relief." R.C. 2953.21(C). This requires the petitioner to "set forth sufficient operative facts to establish substantive grounds for relief." *State v. Calhoun*, 86 Ohio St.3d 279, 1999-Ohio-102, paragraph two of the syllabus. To determine if substantive grounds for relief exist, the statute requires the trial court to consider "supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner, including, but not limited to, the indictment, the court's journal entries, the journalized

records of the clerk of the court, and the court reporter's transcript." R.C. 2953.21(C). The trial court can deny a petition without even holding an evidentiary hearing if the trial court does not find grounds for granting relief. R.C. 2953.21(E); *Calhoun*, 86 Ohio St.3d 279. Thus, a petition could be dismissed based on the trial court's facial review of it, without the benefit of any discovery process, thereby imposing an impossible pleading standard on petitioners.

121. In sum, the Ohio post-conviction process does not require an evidentiary hearing, or any other form of discovery. *See State v. Conway*, 10th Dist. No. 05AP-76, 2005-Ohio-6377, at ¶12 ("We also disagree with appellant's assertion that he is entitled to conduct discovery. In fact, discovery and an evidentiary hearing are rare. This court has addressed this issue previously and has determined that there 'is no requirement of civil discovery in post-conviction proceedings.' . . . A petitioner seeking post-conviction relief is not automatically entitled to an evidentiary hearing."). However, the process places a heavy burden on an inmate such as Davis to set forth "operative facts" warranting further review. Indigent inmates face the insurmountable burden of collecting evidence in support of valid claims prior to the filing of a petition without the means to collect information critical to their claims. Absent funds for the reasonable and necessary expert and investigative assistance to properly investigate, prepare, and litigate the post conviction petition in the abbreviated period of time available provided by the statute of limitations, R.C. 2953.21, it is impossible for Davis to fully and fairly develop the factual bases for his claims and to fully and fairly present those claims to this court.

122. The Sixth Circuit Court of Appeals has expressed its concerns regarding the State of Ohio's inadequate, excessively narrow, and ineffectual post-conviction scheme. *Keener v. Ridenour* (6th Cir. 1979), 594 F.2d 581, 590. The basis for the Sixth Circuit's dissatisfaction with Ohio's lack of process can be traced to *State v. Perry* (1967), 10 Ohio St.2d 175. After *Perry*, the Sixth Circuit recognized that "[b]ecause of the narrow limits placed on the Ohio post-conviction statute, there is no longer any effective State remedy open to the Appellant to exhaust. The *Perry* decision has rendered such process ineffective to protect the rights of the Appellant." *Coley v. Alvis* (6th Cir. 1967), 381 F.2d 870, 872; accord *Allen v. Perini* (6th Cir. 1970), 424 F.2d 134, 139-40.

123. The Ohio Legislature established a post-conviction procedure to effectuate the constitutional rights of those individuals convicted of criminal offenses. Assuming arguendo that those procedures do not emanate directly from clear constitutional provisions, "when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution—and, in particular, in accord with the Due Process Clause." *Evitts*, 469 U.S. at 401.

124. A viable, fair, effective means for Davis to raise collateral challenges to his sentence is all the more critical here because Davis' "life" interest (protected by the "life, liberty and property" language in the Due Process Clause) is at stake in the proceeding. *Ohio Adult Parole Authority v. Woodard* (1998), 523 U.S. 272. Death is different; for that reason more process is due, not less. *See Lockett v. Ohio* (1978), 438 U.S. 586; *Woodson v. North Carolina* (1976), 428 U.S. 280. Davis is entitled to an adequate post-conviction remedy to vindicate his Ohio and Federal constitutional rights to effective assistance of counsel, due process of law, equal protection of the law, confrontation of the State's evidence against him, and freedom from cruel and unusual punishment. Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the United

States Constitution and Article I, §§ 1, 2, 5, 9, 10, 16, and 20 of the Ohio Constitution. Due to the unconstitutionality of Ohio's post-conviction procedures, Davis must be granted a new trial or, at minimum, discovery and an evidentiary hearing on this and all other Grounds for Relief.

Legal Authority in Support of Ground for Relief: *Ohio Adult Parole Authority v. Woodard* (1998), 523 U.S. 272; *Evitts v. Lucey* (1985), 469 U.S. 387; *Lockett v. Ohio* (1978), 438 U.S. 586; *Woodson v. North Carolina* (1976), 428 U.S. 280; *Goldberg v. Kelly* (1970), 397 U.S. 254; *Case v. Nebraska* (1965), 381 U.S. 336; *Keener v. Ridenour* (6th Cir. 1979), 594 F.2d 581; *Allen v. Perini* (6th Cir. 1970), 424 F.2d 134; *Coley v. Alvis* (6th Cir. 1967), 381 F.2d 870; *State v. Calhoun*, 86 Ohio St.3d 279, 1999-Ohio-102; *State v. Cooperrider* (1984), 4 Ohio St.3d 226; *State v. Perry* (1967), 10 Ohio St.2d 175; *State v. Conway*, 10th Dist. No. 05AP-76, 2005-Ohio-6377; R.C. 2953.21; Ohio R. Crim. P. 35(A).

IV. CONCLUSION

WHEREFORE, Defendant-Petitioner Von Clark Davis requests the following relief:

- A. That this Court declare Davis' death sentence to be void or voidable and grant him a new sentencing hearing;
- B. That this Court grant Davis leave to pursue discovery to more fully develop the factual basis demonstrating the constitutional violations that render his conviction and death sentence void or voidable;
- C. That this Court conduct an evidentiary hearing pursuant to R.C. 2953.21;
- D. That this Court grant any further relief to which Davis might be entitled.

Respectfully submitted,



Kort Gatterdam (0040434)
Erik P. Henry (0085155)
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Telephone: (614) 365-4100
Facsimile: (614) 365-9145
E-mail: gatterdam@carpenterlipps.com
henry@carpenterlipps.com

COUNSEL FOR DEFENDANT-PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petition to Vacate or Set Aside Sentence Pursuant to R.C. 2953.21 was forwarded by first-class, postage prepaid U.S. Mail to Michael T. Gmoser, Butler County Prosecuting Attorney, 315 High Street, 11th Floor, Hamilton, Ohio 45011, on this 21st day of October, 2011.



Kort Gatterdam

1
2
3 BE IT REMEMBERED that on the 4th day of
4 August, 1989, the following came on for hearing before a
5 three judge panel.

6 JUDGE BRUEWER: I guess we're back on this
7 case, it's case number CR83-12-0614. It's the State of
8 Ohio vs. Von Clark Davis and I guess we're here at
9 the...to go forward with whatever's going to be presented
10 here this morning in relation to the directives from the
11 Supreme Court. Is the prosecutor ready here?

12 MR. EICHEL: We are, Your Honor.

13 JUDGE BRUEWER: Is the defense ready?

14 MR. GARRETSON: Yes, Your Honor. We
15 would...first of all, I realize we had a hearing Monday
16 and the court made certain rulings at that time, we would
17 renew, for purposes of the record, any of the motions that
18 were filed prior to the original trial, which the court
19 has obviously made rulings previous to this time, as well
20 as the motions we filed on Monday or...or filed and heard
21 on Monday. We do renew specifically the motion that we
22 wanted to present additional testimony. It is our
23 understanding the court has ruled we cannot present that
24 testimony, but that we would be permitted to proffer the
25 testimony into the record. We'll do that however the
court wants us to do that.

JUDGE BRUEWER: They can do that now,

2

1
2 can't they? You can do that prior to argument if you want
3 to, you can go ahead right now.

4 MR. GARRETSON: Alright. Pursuant to the
5 instructions from the court at the hearing on Monday I did
6 not have the actual witnesses appear pursuant to the
7 subpoenas that we had previously issued. However, I did
8 speak over the phone with the three individuals that we
specifically I

1 IN THE COURT OF APPEALS OF BUTLER COUNTY, OHIO

2
3 THE STATE OF OHIO :
4 Appellee :
5 vs. : Case No. CA89-09-0123
6 VON CLARK DAVIS : TRANSCRIPT OF HEARING
7 Appellant : and
8 : COURT'S DECISION
9 :
10 :
11 :
12 :
13 :
14 :
15 :
16 :
17 :
APPEARANCES:

90-2524

Mr. Daniel Eichel
Assistant Prosecutor
For the Appellee

-and-

FILED

MAR 06 1991

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

Mr. John Garretson
Mr. Michael Shanks
Attorneys at law
For the Appellant

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6232

1
2 Corrections at Lucasville on death row. Specifically I'd
3 like to proffer...and...and it's difficult, as the court
4 knows, to...to summarize and proffer and it is our
5 position that the live testimony of these witnesses would
6 be very persuasive and perhaps make a difference in the
7 court's determination, but nonetheless we will proffer
8 their testimony.

9 Sgt. Gordy Pullman, who's the Assistant
10 Unit Manager of death row, I believe, would testify, based
11 upon my conversations with him, that there are two
12 classifications on death row of prisoners, an A and a B
13 classification. The A classification being persons who
14 have not have disciplinary or conduct problems and who are
15 permitted certain privileges that the other prisoners are
16 not and that Von Davis, or "Red", as they refer to him as
17 his nickname, is not only one of the A prisoners...but
18 also is the clerk for death row for the unit manager. I
19 believe the gentleman would testify that Red Davis started
20 out as the clerk, what they called the "block clerk",
21 which was first block clerk that they had or the first
22 time they let somebody on death row be outside their cell
23 and actually work within the confines of the prison, and
24 that from there he was promoted to the unit manager clerk,
25 or the death row clerk, and he...as a matter of fact, is
on a payroll from the State of Ohio, meager as it might
be, he's actually paid to work as a clerk for death row.

1 He would testify that Red has given them no problems
2 whatsoever, that he has been well mannered. When groups
3 are brought in by the warden to tour death row that Red
4 helps conducts the tours. That this system of having
5 inmates on death row work gives a new system and that Red
6 was somewhat of an experiment and had he not worked out
7 they may well have not have the system they now have in
8 place. He indicates that he has presented no problems to
9 other inmates or to the security personnel of the
10 institution and has never had any conduct write-ups, and
11 I...and I wrote down a quote that Sgt. Pullman said, "he
12 wishes all the inmates were like Red and they'd have no
13 problems".

14 The...I spoke with Capt. Oscar McGraw, who
15 is the Unit Manager of death row, and he indicated many of
16 the same things that Sgt. Pullman did, except that Red
17 apparently works directly for him and that he was promoted
18 to the unit manager clerk in October of 1988 and, to use
19 his words, "he's done an excellent job ever since". He
20 indicates he has a positive attitude, a pleasant
21 personality, he has more freedom, so to speak, than the
22 rest of the prisoners as he in...actually in the office,
23 working in the office, during the entire day as the unit
24 manger secretary and, as indicated, he actually is on
25 payroll. He indicated to me that he is trusted and
trusted to the extent that he's trusted with the documents

1 and paperwork that some through there...through death row.
2 He indicated also that he had had no write-ups or conduct
3 problems whatsoever.
4

5 I also spoke with a Herb Wendler, who is
6 the case manager for Von Davis, a social worker within the
7 institution. He indicated that Red was cooperative and
8 courteous and conducted himself properly, that he was
9 always well groomed and well dressed. He indicated that
10 Von had as much trust as any person on death row could
11 have within their institution as a matter of system. He
12 indicated he was dependable and had presented no problems
13 either to staff or the inmates and that he had no conduct
14 write-up since his time in the institution.

15 These are the witnesses, in addition to Dr.
16 Fisher, who would have presented a psychological update
17 based upon his meetings with Von Davis.

18 That's the areas that we wish...wish to
19 proffer. And procedurally we...we have a question. We
20 are assuming from the court's ruling that the only thing
21 that will be presented would be the argument of counsel,
22 which I assume would proceed...the State would be first,
23 we would be second, and then the State would rebut in turn
24 or...or perhaps maybe the State would only go last,
25 I...however.

JUDGE BRUEWER: That's correct.

MR. GARRETSON: And prior to making a

**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO, : Case No. CR-1983-12-0614
 :
 Plaintiff-Respondent, : Judge Nastoff
 :
 v. :
 :
 VON CLARK DAVIS, : CAPITAL CASE
 :
 Defendant-Petitioner. :

AFFIDAVIT OF VON CLARK DAVIS

COUNTY OF MAHONING)
) SS:
STATE OF OHIO)

I, Von Clark Davis, being first duly cautioned do state the following:

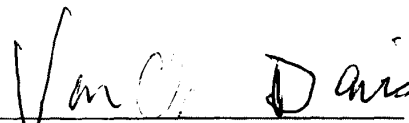
1. I am over 18 years of age, am of sound mind, and am competent to testify regarding the matters discussed in this affidavit.
2. I am the Defendant in the above-captioned case. My attorneys for my September, 2009 penalty phase hearing were Randall Porter and Melynda Cook-Reich.
3. I discussed with my attorneys all my certificates, job evaluations, good conduct as well as guards and case managers that have seen me in prison since 1984. Other than the institutional summary introduced through Scott Nowak, my attorneys did not present any evidence at the penalty phase hearing of my job reviews, achievements or good conduct while in prison.
4. My attorneys never asked me for names of guards, case managers (other than Mr. Nowak) or other prison personnel to interview about possibly testifying for me. I could have provided them a number of names, particularly of guards at OSP (Ohio State Penitentiary) where I have been for the last 4 years as well as the two institutions I had previously been housed, Mansfield Correctional Institution and the Southern Ohio Correctional Institution. I believe they have seen me a sufficient amount of time to be able to attest that, among other things: I follow the rules, I do not act out, I am a hard worker and I have been helpful to them in a number of ways over the years.

EXHIBIT

B

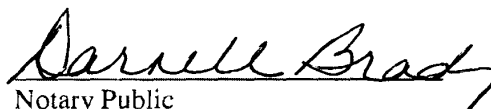
5. I recall my attorneys mentioning at the sentencing hearing that they were going to have John Lee testify about some interviews he did of the following family members: Charles Flowers, Milton Flowers, Fannie Whiteside, and Elizabeth Crawford. I was upset that my attorneys did not call Mr. Lee to testify or attempt to admit the write-ups from Mr. Lee and others of these family members who were deceased or who had dementia at the time of my September, 2009 hearing. I thought these interviews provided important family insight that was not contained in other people's testimony. I also believed that their information was necessary as substantive evidence, not just for Dr. Smith's social history.
6. My attorneys mentioned to me that they were going to call someone from the Parole Board to say that I would never be paroled. I told both my attorneys and the mitigation specialist from the Office of the Public Defender that I did not like this idea at all. I thought this person would be putting a nail in my coffin. Mr. Porter said this information would help. He and I argued about it because I did not agree.
7. My attorneys said to me that I was never getting out of prison. I wanted some hope of getting out. They sent the mitigation specialist up to talk to me about possibly taking a life without parole deal but I rejected that. I had no idea that life without parole was not a sentencing option in my case.
8. My attorneys did not discuss at all with me their decision not to seek the recusal of Judge Nastoff. I did not know until my sentencing hearing in September, 2009 that Judge Nastoff was one of the prosecutors who went to trial and sought the death penalty against my nephew, Lahray Thompson. I was too shocked to say anything to my attorneys at that point but had I been asked earlier, I would have asked my attorneys to seek Judge Nastoff's recusal.
9. Prior to my first trial in this case, back in 1984, I had attorneys Michael Shanks and John Garretson. I was unaware of all the consequences of my jury waiver back in 1984. I was not told by my trial attorneys that once I waived a jury, I could never have a jury in my case even if I was convicted and the case was reversed on appeal. I was also under the impression that the jury waiver applied to this panel of judges only and for this trial only, not to any new panel of judges or even one different judge that might hear the case later if my case was reversed on appeal. I was not informed that if death penalty law changed, I would not get the benefit of those changes because I had waived my right to a jury trial. All of these things would have affected my decision to waive jury and I would not have waived jury had I known these things back in 1984.

FURTHER AFFIANT SAYETH NAUGHT.



Von Clark Davis

Sworn to and subscribed before me this 17th day of October, 2011.



Notary Public

**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO,	:	Case No. CR-1983-12-0614
	:	
Plaintiff-Respondent,	:	Judge Nastoff
	:	
v.	:	
	:	
VON CLARK DAVIS,	:	CAPITAL CASE
	:	
Defendant-Petitioner.	:	

AFFIDAVIT OF KORT GATTERDAM

COUNTY OF FRANKLIN)
) SS:
STATE OF OHIO)

I, Kort Gatterdam, being first duly cautioned do state the following:

1. I am over 18 years of age, am of sound mind, and am competent to testify regarding the matters discussed in this affidavit.
2. I am an attorney, licensed to practice law in the State of Ohio since 1988. I have been practicing criminal defense at the trial and appellate level since 1988. I am certified to handle capital cases pursuant to R. Sup. 20 and have handled a number of capital cases since I have been practicing law.
3. I am presently representing Von Clark Davis in filing for post-conviction relief from his September 2009 penalty phase rehearing before a three judge panel. As part of my investigation, I spoke to Mr. Davis's case manager, Scott Nowak. I asked Mr. Nowak if I could arrange to come up to the Ohio State Penitentiary with my mitigation specialist to interview any guards, caseworkers or other prison personnel that know Mr. Davis and may have been potential witnesses for his 2009 sentencing hearing. Mr. Nowak advised me that he would have to talk to the Warden. He got back to me later and said that neither I nor my mitigation specialist would be able to interview any ODRC (Ohio Department of Rehabilitation and Correction) employees per ODRC policy. He did say that trial counsel could have subpoenaed any ODRC employee to the sentencing hearing and they would comply with the subpoena.

FURTHER AFFIANT SAYETH NAUGHT.


EXHIBIT

C



KORT GATTERDAM

Sworn to and subscribed before me this 20th day of October, 2011.



Notary Public



Erik P. Henry, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO,	:	Case No. CR-1983-12-0614
	:	
Plaintiff-Respondent,	:	Judge Nastoff
	:	
v.	:	
	:	
VON CLARK DAVIS,	:	CAPITAL CASE
	:	
Defendant-Petitioner.	:	

AFFIDAVIT OF DIANE M. MENASHE

COUNTY OF FRANKLIN)
) SS:
STATE OF OHIO)

I, Diane Menashe, being first duly cautioned do state the following:

1. I am over 18 years of age, am of sound mind, and am competent to testify regarding the matters discussed in this affidavit.
2. I am attorney, licensed to practice law in the State of Ohio since 1998. I worked in the Office of the Ohio Public Defender from 1997 to 2001. From 2001 to present, I have been in private practice in my own office, Diane M. Menashe Co., L.P.A.
3. My practice is exclusively focused on criminal defense in state and federal court. I have litigated numerous cases in state and federal court.
4. I am certified by the State of Ohio as lead counsel in capital cases pursuant to Rule 20 of the Ohio Rules of Superintendence and have handled and tried numerous capital cases. I have also handled two federal capital cases that went to jury, *United States v. Lawrence* and *United States v. Henderson*, both in the Southern District of Ohio, Eastern Division.
5. I was retained by Attorney Kort Gatterdam to provide my opinion on the sentencing phase trial beginning September 8, 2009, in State of Ohio v. Von Clark Davis.
6. As part of my duties, I reviewed: the September 8, 2009 – September 10, 2009 penalty phase transcript; Supreme Court of Ohio opinions; Court of Appeals opinions; Sixth Circuit Court of Appeals opinion ordering a new penalty phase hearing; mitigation write-

EXHIBIT

D

ups; affidavits of Cynthia Mausser, Dr. Bob Smith, Kort Gatterdam, and Von Clark Davis; transcript of proffer of defense witnesses for August 1989 penalty phase hearing, p. 1–5; prior penalty phase opinions; prison records attached to post-conviction petition; penalty phase exhibits B-I.

7. I am fully conversant with the Sixth Amendment test for ineffective assistance of counsel enunciated in *Strickland v. Washington* (1984), 466 U.S. 668, and its progeny. Based upon my experience and upon the prevailing constitutional standards, it is my professional opinion that trial counsel's performance was deficient in several areas and those deficiencies prejudiced the penalty phase of Von Clark Davis's case.
8. First Ground for Relief – I am familiar with the Sixth Circuit's Opinion in *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761. In that case, the Sixth Circuit granted Davis habeas relief because during Davis' second penalty phase hearing, the three-judge panel erroneously excluded testimony regarding Davis' exemplary behavior on death row between his first and second sentencing hearings. *Id.* at 770. Regarding the evidence, the Sixth Circuit stated:

Such testimony would have established that Davis was classified as an "A" prisoner, indicating that he had no discipline or conduct problems; that he was the clerk on death row for the unit manager and helped conduct tours of death row; and that he had created no problems for other inmates or for security personnel and had no conduct write-ups. Davis worked directly for Oscar McGraw, the unit manager for death row, who complimented Davis's positive attitude and pleasant personality. Herb Wendler, Davis's case manager, observed that Davis was cooperative and courteous, that he had been given much more freedom than other inmates on death row, and that he had been placed in various positions of trust within the unit.

Id. at 773. The Sixth Circuit determined that based on the record in the case, this evidence was "without doubt . . . highly relevant to the single aggravating factor relied upon by the state—that future dangerousness should keep Davis on death row." *Id.*

9. It is my understanding the defense counsel handling Davis' 2009 penalty phase hearing never attempted to contact Sgt. Gordy Pullman, Oscar McGraw, Herb Wendler or any other witnesses who may have had information as to Davis' model behavior while on death row. I find this to be deficient performance. The anticipated testimony of Oscar McGraw and Herb Wendler was the basis for the Sixth Circuit's reversal of Davis' 1989 death sentence. There is no legitimate reason for defense counsel's failure to even attempt to locate these or any other witnesses which may have had information regarding Davis's good behavior while incarcerated on death row. If defense counsel was concerned with ODRC's policy regarding employee interviews, they could very easily have subpoenaed the witnesses to the penalty phase hearing and interviewed (or had their mitigation specialist interview) the witnesses when they appeared for court.

10. The failure to conduct this investigation is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
11. Second Ground for Relief – I read the penalty phase testimony of caseworker Scott Nowak. It is my understanding that Mr. Davis had a number of certificates, and other information about his accomplishments while in prison, work history while in prison, lack of institutional write-ups and security level reductions. It is my opinion that these documents should have been marked as exhibits and introduced at the penalty phase hearing. Demonstrative evidence of Davis' accomplishments and his behavior while in prison would have been important tangible evidence for the trier of fact. The evidence was admissible, available and relevant to whether Davis should be sentenced to death. Submitting a two page summary through Mr. Nowak was incomplete and unpersuasive, particularly when other evidence existed.
12. The failure to present this evidence is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
13. Third Ground for Relief – I believe defense counsel has a duty to determine, before placing a witness on the stand, whether that witness could potentially harm the defense case and if so, whether that is a risk worth taking. I read the testimony and affidavit of Cynthia Mausser. Given what Ms. Mausser stated in her affidavit and in her testimony at the penalty phase hearing, I would not have called her as a witness. I believe her testimony harmed Mr. Davis's case. Although defense counsel in their opening statement promised otherwise, Ms. Mausser could not say that Davis would never be paroled. To the contrary, she testified that Davis was apt to be paroled and because he had twice been convicted of murder, the streets would not be safe if/when he were ever released.
14. As the Chair of the Board, I find it hard to believe Ms. Mausser would have guaranteed defense counsel during an interview that Mr. Davis would never be paroled. Rather, it stands to reason that Ms. Mausser's affidavit about what she told defense counsel when interviewed about the possibility of Davis' parole is accurate. No single Parole Board Member constitutes a majority so even if she had an opinion on parole, it would not necessarily be shared by others on the Board.
15. The presentation of Cynthia Mausser's testimony is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
16. Fourth Ground for Relief – Dr. Smith was asked to provide testimony on Davis's psycho-social history and what, if any, psychological disorders he suffered from at the time of the incident. In my opinion, the key question in this penalty phase was whether Mr. Davis would be a danger to anyone in the community if he was paroled. Defense counsel obviously did not prepare Dr. Smith to testify on this issue because he offered no testimony in this regard. Moreover, his testimony had the opposite effect; he opined that the nature of borderline personality disorder is that an inmate does well in a structured setting like prison but not when they have no clear cut structure like a person out in the

community. Given Mr. Davis's prior history, I believe this testimony was harmful and contributed to the panel giving Mr. Davis death.

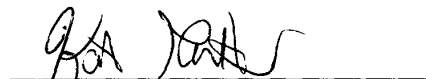
17. In addition, defense counsel should have gained information from the prior two panels of judges that heard similar testimony and rejected the psychological testimony. In fact, the second panel actually used the psychological testimony to assist them in making their decision that the death penalty was the appropriate sentence. Defense counsel should either have not presented the testimony of Dr. Smith or focused on the future dangerousness issue as addressed by Dr. Smith's affidavit.
18. The presentation of Dr. Bob Smith's testimony is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
19. Fifth Ground for Relief – Defense counsel had an exhibit notebook with Exhibits A–L, presumably which they intended to introduce into evidence at the penalty phase hearing. However, they only submitted Exhibits J, K, and L. Of the documents not submitted was an affidavit and the mitigation write-ups from four witnesses who were either deceased or were no longer competent to testify. These witnesses had relevant and important historical information to provide about Davis. Although defense counsel initially indicated to the Court that they intended to present the affidavit and mitigation write-ups through the testimony of their mitigation specialist, John Lee, they did not. For reasons unknown, the defense did not call Mr. Lee. Furthermore, they later withdrew their request to have the exhibits introduced.
20. The defendant is to be given great latitude in presenting mitigating factors in a capital sentencing hearing. See R.C. 2929.04(C); *State v. Landrum* (1990), 53 Ohio St.3d 107, 115. Moreover, in this case the affiants were unavailable, so under a more lax standard of evidentiary rules the documents were apt to be admissible. Further, the fact that the case was being tried to a three judge panel makes it more likely than not that the affidavit and the mitigation the write-ups would have been admitted into evidence and given the appropriate weight. I believe that the evidence was admissible as substantive evidence and defense counsel should have introduced or at least attempted to introduce this testimony. Moreover, I believe the evidence was relevant and important to the defense case.
21. The failure to present John Lee's testimony and/or the mitigation write-ups and affidavit is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
22. Sixth Ground for Relief – At the end of Carol Smith's testimony, Judge Nastoff indicated that he prosecuted, and argued for the death penalty, against Ms. Smith's son, Lahray Thompson. Carol Smith is the sister of the Defendant, making Lahray Thompson the Defendant's nephew. Defense counsel indicated that he made the decision long ago not to challenge the judge's connection to Ms. Smith as grounds for recusal.

23. I have reviewed Mr. Davis's affidavit where he states that his attorney never discussed the recusal issue with him. I find this to be problematic. Moreover, I find it deficient performance not to seek recusal of Judge Nastoff based on his affiliation to Ms. Smith. Judge Nastoff sought the death penalty against Mr. Davis's nephew. During that prosecution he heard and cross examined some of the very same mitigation evidence that Davis presented in his case. It would be difficult, if not impossible, to put aside Judge Nastoff's prior opinions about the veracity and strength of the mitigation.
24. Further, as a practical matter, Judge Nastoff was a former prosecutor who litigated capital cases. Strategically he was not likely to favor the defense presentation given his prior employment.
25. The failure to seek Judge Nastoff's recusal is objectively unreasonable and constitutes ineffective assistance of counsel pursuant to the two prong test in *Strickland v. Washington*.
26. In addition to the aforementioned examples of ineffectiveness, I observed several other deficiencies in defense counsel's representation.
27. The first witness to testify was Francis Weiland from England. Ms. Weiland had important information about Mr. Davis's remorse and how he has rehabilitated himself over time. She had a letter from Mr. Davis addressing his remorse but was prevented from introducing it into evidence because defense counsel did not provide a copy of the letter to the prosecution as required by the Rules of Evidence.
28. I also found Mr. Davis's unsworn statement to be rehearsed and unconvincing. Despite the Sixth Circuit's reason for reversal in the case of *Davis v. Coyle* (6th Cir. 2007), 475 F.3d 761, defense counsel did not ask Davis about his institutional adjustment or achievements. Davis' testimony as to this issue was even more critical in the absence of any ODRC employees being called as witnesses by the defense. Mr. Davis should have been asked to testify about his exemplary behavior in prison, his certificates, work history, etc.
29. All of my opinions are based on my experience, my review of the records in this case and my knowledge of the standard for ineffective assistance of trial counsel under *Strickland v. Washington*. For the reasons stated above, both individually and cumulatively, Von Clark Davis was deprived of the effective assistance of trial counsel under the Ohio and United States Constitutions.

FURTHER AFFIANT SAYETH NAUGHT.


DIANE M. MENASHE

Sworn to and subscribed before me this 21st day of October, 2011.


Notary Public



KORY GATTERDAM, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.



OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW Job Assignment: Block Clerk (2)
 Period of Evaluation (Check one): Probationary:
 Annual:
 Special: ✓

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	(10)
Initiative	1	2	3	4	5	6	7	8	9	(10)
Quality/Quantity	1	2	3	4	5	6	7	8	(9)	10
Attendance	1	2	3	4	5	6	7	8	9	(10)
Dependability	1	2	3	4	5	6	7	8	9	(10)
Safety/Housekeeping	1	2	3	4	5	6	7	8	(9)	(10)
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	(9)	10

Total Evaluation Rating: 58

Evaluator Comments: Inmate Davis is a real good worker, he
needs very little supervision on his job, he is willing
to do extra work with out complaining

Reviewer Comments: This man has demonstrated excellent
Adjustment and is a willing worker.

Evaluated by: J. R. Lewis 186 Title: 902 Date: 7-12-88
 Reviewed by: B. E. McKinn Title: Unit Manager Date: 12 July 88
 Inmate Signature: Von Davis Number: 179-828 Date: 7/14/88

DRC 1/87

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW - PAYROLL Job Assignment: Asst.' Unit Mgr.'s Clerk/Porter
10/1/88 - 8/1/89
 Period of Evaluation (Check one): Probationary:
 Annual:
 Special: XXXX

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	10
Initiative	1	2	3	4	5	6	7	8	9	10
Quality/Quantity	1	2	3	4	5	6	7	8	9	10
Attendance	1	2	3	4	5	6	7	8	9	10
Dependability	1	2	3	4	5	6	7	8	9	10
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	9	10

Total Evaluation Rating

Evaluator Comments: Inmate Davis has a fair attitude you
could depend upon him to do his job, he work well
and try to get along with the staff and fellow inmates

Reviewer Comments: Was a good worker - has a good
attitude.

Evaluated by: H. Pullman Title: Asst. Date: 8-17-89
 Reviewed by: D. E. McKee Title: U. M. #7 Date: 8-29-89
 X Inmate Signature: Davis Number: Date:

DR&C-1/82

DRC Records from Court

666

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6249

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW Job Assignment: 5/1/88 to 10/1/88
PAYROLL ASST. CLERK UNIT MANAGER
 Period of Evaluation (Check one): Probationary: 10/1/88 to 10/12/88
 Annual: _____
 Special: XXXX

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	(10)
Initiative	1	2	3	4	5	6	7	8	9	(10)
Quality/Quantity	1	2	3	4	5	6	7	8	9	(10)
Attendance	1	2	3	4	5	6	7	8	9	(10)
Dependability	1	2	3	4	5	6	7	8	9	(10)
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	(10)
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	(9)	10
Total Evaluation Rating	<u>69</u>									

Evaluator Comments: I'm DAVIS DOES AN EXCELLENT JOB
AS BLOCK CLERK

Reviewer Comments: Davis was adapting readily as assistant
clerk in Unit Manager office. He is a willing worker
and does an excellent job.

Evaluated by: J. Cox #89 Title: C/O II Date: 10-17-88
 Reviewed by: D.E. McKinnon Title: K-4 Unit Manager Date: 18 Oct 88
 Inmate Signature: _____ Number: _____ Date: _____

Inmate sent to outside Court - AWK
1-1-88

DRC Records from Court

670

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6250

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW / PAYROLL Job Assignment: K-4 DAYROOM PORTER
 Period of Evaluation (Check one): Probationary: 8/17/89 to 1/1/90 ROTATION
 Annual: _____
 Special: XXXXX

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	10
Initiative	1	2	3	4	5	6	7	8	9	10
Quality/Quantity	1	2	3	4	5	6	7	8	9	10
Attendance	1	2	3	4	5	6	7	8	9	10
Dependability	1	2	3	4	5	6	7	8	9	10
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	9	10
Total Evaluation Rating	<u>58</u>									

Evaluator Comments: None

Reviewer Comments: Concur with rater need to improve on some of his rating. He will mark at any thing job if ask.

Evaluated by: DR. Colley #12 Title: CO2 Date: 2-1-90
 Reviewed by: Lester Pullman Title: Sgt Date: 2-1-90
 Inmate Signature: My Davis Number: 179 828 Date: _____

DR&C-1/82

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW - PAYROLL Job Assignment: K-3 BLOCK CLERK
 Period of Evaluation (Check one): Probationary: (3-19-90 - 7-1-90) ROTATED
 Annual: _____
 Special: xxx

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	10
Initiative	1	2	3	4	5	6	7	8	9	10
Quality/Quantity	1	2	3	4	5	6	7	8	9	10
Attendance	1	2	3	4	5	6	7	8	9	10
Dependability	1	2	3	4	5	6	7	8	9	10
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	9	10
Total Evaluation Rating	<u>68</u>									

Evaluator Comments: _____

Reviewer Comments: The ratings are a little to high, but he is a good worker.

Evaluated by: S.T. Trotter⁹¹ Title: C/O Date: 7-5-90
 Reviewed by: S. Pullman Title: Sgt Date: 7-6-90
 Inmate Signature: W. Davis Number: 179828 Date: 7-6-90

I object to reviewer comments on getting high rate

DR&C-1/82

DRC Records from Court

663

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6252

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: Death Row - Payroll Job Assignment: K-4 Blck Porter
 Period of Evaluation (Check one): Probationary: 8/1/90 - 10/1/90 (Rotated)
 Annual: _____
 Special: XXX

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	(10)
Initiative	1	2	3	4	5	6	7	8	9	(10)
Quality/Quantity	1	2	3	4	5	6	7	(8)	9	10
Attendance	1	2	3	4	5	6	7	8	9	(10)
Dependability	1	2	3	4	5	6	7	8	9	(10)
Safety/Housekeeping	1	2	3	4	5	6	7	(8)	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	(7)	8	9	10
Total Evaluation Rating	<u>63</u>									

Evaluator Comments: Inmate Davis is a self starter and need
minimum supervision, he like to get his job done and
get out of the way, he doesn't mind doing extra work
when ask to do so.
 Reviewer Comments: Concur with evaluator

Evaluated by: J. Lewis 186 Title: 90 Date: 10-1-90
 Reviewed by: A. Pullman Title: Sgt Date: 10-1-90
 Inmate Signature: Von Clark Number: 179828 Date: 10-1-90

DR&C-1/82

DRC Records from Court

661

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6253

OHIO DEPARTMENT OF REHABILITATION & CORRECTION

Inmate Evaluation Report

Inmate Name: DAVIS Inmate Number: 179-828
 Work Program: DEATH ROW / UNIT 7 Job Assignment: CLERK - GENERAL
 Period of Evaluation (Check one): Probationary: _____
 Annual: _____
 Special: _____

Each aspect of inmate's performance is to be evaluated on a 1 to 10 basis.

1 = poor performance, 10 = excellent performance

<u>FACTOR</u>	<u>RATING</u>									
Attitude	1	2	3	4	5	6	7	8	9	10
Initiative	1	2	3	4	5	6	7	8	9	10
Quality/Quantity	1	2	3	4	5	6	7	8	9	10
Attendance	1	2	3	4	5	6	7	8	9	10
Dependability	1	2	3	4	5	6	7	8	9	10
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	9	10
Total Evaluation Rating	<u>56</u>									

Evaluator Comments: Davis was a good worker, &
always kept his area clean

Reviewer Comments: Concur with rates

Evaluated by: L. J. Moon #164 Title: GO IT Date: 12-4-90
 Reviewed by: Hullman Title: Det Date: 12-4-90
 Inmate Signature: V. Davis Number: 179828 Date: DEC 07 1990

DR&C-1/82

DRC Records from Court

658

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6254

Inmate Name Davis Inmate Number 179.828Work Program _____ Job Assignment Porter

Period of Evaluation (Check one)

ATTENTION: THE PERSON FILLING OUT
THIS EVALUATION IS ASKED TO PLEASE
FILL IN THE INMATE'S UNIT & POD
LOCATION.

Annual ☒Special ☐

Each aspect of inmate's performance is to be evaluated on 1 to 10 basis.

1= Poor performance 10= Excellent performance

FACTOR	RATING									
Attitude	1	2	3	4	5	6	7	8	9	10
Initiative	1	2	3	4	5	6	7	8	9	10
Quality/Quantity	1	2	3	4	5	6	7	8	9	10
Attendance	1	2	3	4	5	6	7	8	9	10
Dependability	1	2	3	4	5	6	7	8	9	10
Safety/Housekeeping	1	2	3	4	5	6	7	8	9	10
Increasing Knowledge/Skills	1	2	3	4	5	6	7	8	9	10

Total Evaluation rating 65Evaluator Comments Inmate does a good job.

Reviewers Comments _____

Evaluated By: Stubb Title Yo Date 1-5-99

Reviewed By: _____ Title _____ Date _____

Inmate Signature: Va Davis Number 179828 Date _____

ENTER INMATES LOCK PLEASE

PLEASE RETURN TO JOB COORDINATORS OFFICE

DR-3

1063

DRC Records from Court

651

Classification/Reclassification Committee Report
MANCI 01/29/2001

Id Number: A179828 Last Name: DAVIS

First Name: VON

Current Job: FOOD SERVICE WKR

Location: DR3/A/PM

Job Date: 07/29/1999

Action Initiated by: FP

Move Sheet Date: 02/01/2001

Reason for Appearance: DR JOB

Recommended New Job: FOOD SERVICE WKR

New Location: DR3/A/AM

Job Coordinator Comments:

Approved: ✓

NOT Approved: _____ -----> Requested Job: _____

Location: _____

Move Sheet Date: _____

Committee Signatures: *Scott Warner* *Barbara Perry* *Greg A. Moss*

Date: 1-30-01 1-30-01 1-30-01

DRG Records from Court

642

Classification/Reclassification Committee Report
MANCI 07/29/2002

Id Number: A179828 Last Name: DAVIS First Name: VON
Current Job: FOOD SERVICE WKR 2 Location: DR4/B/AM
Job Date: 07/29/2002

Action Initiated by: FP Move Sheet Date: 08/01/2002
Reason for Appearance: ROTATION
Recommended New Job: FOOD SERVICE WKR 2 New Location: DR4/B/AM

Job Coordinator Comments:

Approved: ✓

NOT Approved: _____ -----> Requested Job: _____

Location: _____

Move Sheet Date: _____

GREG MORROW
CASE MANAGER
DEATH ROW

Committee Signatures: _____

Date: _____

7/31/02

B. Ringer
7-31-2002

Det K. Wener
7-31-02

Inmate Signature: _____

Von Clark Davis 179828
July 31st

Distribution: Unit File

DRC Records from Court

641

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6257

Classification and Reclassification- Processing

Pink copy is to be given to Inmate 48 hours before scheduled conference date.

☐ Inmate Waives 48 hour notification.

Inmate Signature:

Date:

Inmate Name: <u>Davis</u>	Number: <u>179-828</u>	Lock: <u>B5-27</u>	Date: <u>11/1/05</u>
Name of Staff Making Referral: <u>J. Hughes</u>		Position: <u>Job Coord</u>	

Reason for Referral

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Initial Job Assignment | <input type="checkbox"/> Annual Review - Work or Program | <input type="checkbox"/> Merit Status |
| <input type="checkbox"/> Job Change | <input type="checkbox"/> Institutional Transfer | <input type="checkbox"/> Work Camp Screening |
| <input type="checkbox"/> Promotion/Demotion Request | <input type="checkbox"/> RIB Referral | <input type="checkbox"/> Release Local Control |
| <input type="checkbox"/> Security Level Review | <input type="checkbox"/> Community Release | <input type="checkbox"/> Education |
| <input type="checkbox"/> Other: _____ | Comment: _____ | |

FOR JOB ACTIONS ONLY

Forward to job coordinator. Otherwise forward to appropriate unit

Current Work or Program Assignment: <u>Orientation</u>	Proposed Assignment: <u>Post 5 (ice post)</u>
--	---

TO BE COMPLETED BY JOB COORDINATOR ☒ Recommended ☐ Not Recommended

Reason for NOT recommending: ☐ Less than 90 Days ☐ Other: _____

Job Coordinator Signature: <u>J. Hughes</u>	Date: <u>11/1/05</u>	(Forward to Unit Reclass Committee)
---	----------------------	-------------------------------------

FOR UNIT STAFF ONLY

You are scheduled for a conference with the Unit Class/Reclass Committee regarding:		
<input type="checkbox"/> Security Status	<input checked="" type="checkbox"/> Work Assignment	<input type="checkbox"/> Program Assignment
Classification Conference Date: <u>11/03/05</u>	Time: <u>10 am</u>	Place: <u>cell</u>

Supervision Status Review

Present Supervision Status:	Recommended Status:
-----------------------------	---------------------

Committee Action (for security status, work or program assignment)

Documentation provided by inmate: _____

General comments: _____

☒ Approved ☐ Denied ☐ Modified to: _____

Committee Date: <u>11/03/05</u>	New Status/Job/Program: <u>Ice Foster</u>	Date of Next Review:
Chairperson: <u>[Signature]</u>	Member: <u>[Signature]</u>	Member: <u>Sgt. Johnson</u>

Appeal Rights: 1) You may appeal this action to the Warden or his designee within 24-hours by kite.

2) Security appeals may be further appealed to the Bureau of Classification within fifteen days.

Inmate Signature: <u>Von C. Davis</u>	Date: <u>11/1/05</u>
---------------------------------------	----------------------

DISTRIBUTION: WHITE - Unit File CANARY - Job Coordinator/TIE Data Entry Operator PINK - Inmate - To serve as Inmate's 48 hour notice.
DRC 2099 (Rev. 12/03) ACA 4252, 4283-4288, 4291, 4292

Classification and Reclassification Processing

Pink copy is to be given to Inmate 48 hours before scheduled conference date.

☐ Inmate Waives 48 hour notification.

Inmate Signature:

Date:

Inmate Name: <u>Davis</u>	Number: <u>179-828</u>	Lock: <u>D-6-27</u>	Date: <u>01/10/06</u>
Name of Staff Making Referral: <u>S. Nowak</u>		Position: <u>CM</u>	

Reason for Referral

- | | | |
|---|--|--|
| <input type="checkbox"/> Initial Job Assignment | <input type="checkbox"/> Annual Review - Work or Program | <input type="checkbox"/> Merit Status |
| <input checked="" type="checkbox"/> Job Change | <input type="checkbox"/> Institutional Transfer | <input type="checkbox"/> Work Camp Screening |
| <input type="checkbox"/> Promotion/Demotion Request | <input type="checkbox"/> RIB Referral | <input type="checkbox"/> Release Local Control |
| <input type="checkbox"/> Security Level Review | <input type="checkbox"/> Community Release | <input type="checkbox"/> Education |
| <input type="checkbox"/> Other: _____ | Comment: _____ | |

FOR JOB ACTIONS ONLY

Forward to job coordinator. Otherwise forward to appropriate unit

Current Work or Program Assignment: <u>ICE Poster (B)</u>	Proposed Assignment: <u>Poster (D)</u>
---	--

TO BE COMPLETED BY JOB COORDINATOR ☐ Recommended ☐ Not Recommended

Reason for NOT recommending: ☐ Less than 90 Days ☐ Other: _____

Job Coordinator Signature: _____	Date: _____	(Forward to Unit Reclass Committee)
----------------------------------	-------------	-------------------------------------

FOR UNIT STAFF ONLY

You are scheduled for a conference with the Unit Class/Reclass Committee regarding:		
<input type="checkbox"/> Security Status	<input checked="" type="checkbox"/> Work Assignment	<input type="checkbox"/> Program Assignment
Classification Conference Date: <u>01-12-06</u>	Time: <u>3:00pm</u>	Place: <u>cell</u>

Supervision Status Review

Present Supervision Status: _____	Recommended Status: _____
-----------------------------------	---------------------------

Committee Action (for security status, work or program assignment)

Documentation provided by inmate: _____

General comments: moved to extended privileges

☒ Approved ☐ Denied ☐ Modified to: _____

Committee Date: <u>01-12-06</u>	New Status/Job/Program: <u>Poster (D)</u>	Date of Next Review: _____
Chairperson: <u>[Signature]</u>	Member: <u>[Signature]</u>	Member: _____

Appeal Rights: 1) You may appeal this action to the Warden or his designee within 24-hours by kite.

2) Security appeals may be further appealed to the Bureau of Classification within fifteen days.

Inmate Signature: <u>Van C. Davis</u>	Number: <u>179828</u>	Date: <u>1-12-06</u>
---------------------------------------	-----------------------	----------------------

DISTRIBUTION: WHITE - Unit File CANARY - Job Coordinator/TIE Data Entry Operator PINK - Inmate - To serve as inmate's 48 hour notice.
DRC 2099 (Rev. 12/03) ACA 4262, 4283-4288, 4291, 4292

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIODate of Review: 2 (mo.) 86 (day) (yr.)Reviewer: JHGInstitution: SDCFNumber: # 179-828Name: DAVIS (last) VON (first)

Date of Birth: [REDACTED] (mo.) (day) (yr.)

RACE:

White ☐Black ☒Other ☐

SEX:

Male ☒Female ☐HISPAN ☐

Present Security Status:

☐

Minimum

☒

Close

Maximum

4Date Present Security Status Assigned: 6-84

SECTION A.

SECURITY SCORING

1. Type of Detainer

NONEDegree: 7

None = 0

1° Felony & Unclassified = 7

2° Felony = 5

3° Felony = 3

4° Felony = 3

Misdemeanor = 1

2. Severity of Current Offense:

Agg MURDERDegree: 7

1° Felony & Unclassified = 7

2° Felony = 5

Misdemeanor = 1

3° Felony = 3

4° Felony = 3

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 1 / 1 / DEATHMonths from Table 1: Row

12 mos. or less = 0

25 mos. - 60 mos. = 2

85 mos. - 108 mos. = 5

13 mos. - 24 mos. = 1

61 mos. - 84 mos. = 3

109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escapes/Attempts:

date of scoring:

date of occurrence:

elapsed time:

(mos)	(yrs)

Minor

Major

None	Less than 5 years	5-10 years	10-15 years	15 years or more
0	3	2	1	1
0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring:

date of violence:

elapsed time:

<u>2</u>	<u>86</u>
<u>4</u>	<u>71</u>
<u>10</u>	<u>14</u>

(mos) (yrs)

Minor

Major

None	Less than 5 years	5-10 years	10-15 years	15 years or more
0	3	2	1	1
0	7	6	5	4

Remarks: MURDER 2ND

7. SECURITY TOTAL

22

8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM☐7 - 13 points
MEDIUM☐14 - 24 points
CLOSE☒25 - 38 points
MAXIMUM☐

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (Use Tables I and II)

(a) Total months served, to date, this commitment (use Table II). D.R.

(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring").

(c) Total time this commitment until release or release hearing (line a + line b).

(d) Divide: (line c) / (a) % = 0 thru 25% enter 3
26 thru 75% enter 4
76 thru 99% enter 5

in the box at the top of page 2

Time Served (calculated at the bottom of page 1) P.R. 3

Not with Alcohol/Drugs 7-84 INTAKE Summary 2

Within past 5 years = 2 More than 5 years ago = 3 Never = 4

Mental/Psychological Stability (to handle lesser supervision status) 2

Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) 5

Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)

Comments concerning the weighting: NONE

Greatest Severity = 1 Moderate = 3 Low Severity = 4

High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) 3

No reports = 3 3 thru 5 reports = 1

1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated 4

Poor = 0 Average = 2 Good = 4

7. Family/Community Ties 4

None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) 23

9. Supervision Change Scale

(a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.

(b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C. ADMINISTRATIVE REVIEW

Type of Review: Regular ☐ Other* ☐ * Explain: _____

1. Step 1. Present Supervision Status:

MIN	L1	L2	L3

MED	L2	L3

CLO	L3

MAX	L3	L4
		<input checked="" type="checkbox"/>

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": _____

4. Date of Next Review: Mo. Yr. 5. New Supervision Status

MIN	L1	L2	L3

MED	L2	L3

CLO	L3

MAX	L3	L4

6. Chairperson: _____ Date: _____

7. Superintendent's Action: ☐ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: _____ Date: _____

10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____ Comments: _____

** = Record the reasons for research purposes and later reporting.

DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIODate of Review: 12-24-86
(mo.) (day) (yr.)Reviewer: F.O.W.Institution: SOIFNumber: # 111-000Name: DAVIS, Van Clar
(last) (first) (M)

Date of Birth: [REDACTED]

RACE: ☐ White ☒ Black ☐ Other ☐

SEX: ☐ Male ☒ Female ☐

HISPANIC: ☐ Yes ☒ No

Present Security Status:

☐ Minimum ☒ Close
☐ Medium ☒ Maximum
Date Present Security Status Assigned: 2-14-86

SECTION A.

SECURITY SCORING

1. Type of Detainer None Degree: None
 (offense)
 None = 0 3° Felony = 3
 1° Felony & Unclassified = 7 4° Felony = 3
 2° Felony = 5 Misdemeanor = 1
2. Severity of Current Offense: Aggr. Murder Degree: 10
 (offense)
 1° Felony & Unclassified = 7 3° Felony = 3
 2° Felony = 5 4° Felony = 3
 Misdemeanor = 1
3. Time to Earliest Possible Parole Hearing or Release (See Table 1):
 Month and year: None } not applicable
 Months from Table 1: None } Death Row Status
- | | | |
|----------------------------|----------------------------|-----------------------------|
| 12 mos. or less. = 0 | 25 mos. - 60 mos. = 2 | 85 mos. - 108 mos. = 5 |
| 13 mos. - 24 mos. = 1 | 61 mos. - 84 mos. = 3 | 109 mos. or more = 7 |
4. Type of Prior Commitments:
 None = 0 Misdemeanor = 1 Felony = 3
5. History of Escapes/Attempts:
 date of scoring: 12-24-86
 date of occurrence: None
 elapsed time: None
 (mos) (yrs)
- | None | Less than 5 years | 5-10 years | 10-15 years | 15 years or more |
|------|-------------------|------------|-------------|------------------|
| 0 | 3 | 2 | 1 | 1 |
| 0 | 7 | 6 | 5 | 4 |
- Remarks: _____
6. History of Violence:
 date of scoring: 12-24-86
 date of violence: 12-12-83
 elapsed time: 16 3
 (mos) (yrs)
- | None | Less than 5 years | 5-10 years | 10-15 years | 15 years or more |
|------|-------------------|------------|-------------|------------------|
| 0 | 3 | 2 | 1 | 1 |
| 0 | 7 | 6 | 5 | 4 |
- Remarks: Instant offense
7. SECURITY TOTAL 24
8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM7 - 13 points
MEDIUM14 - 24 points
CLOSE25 - 38 points
MAXIMUM

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (use Tables I and II)
 (a) Total months served, to date, this commitment (use Table I) not applicable
 (b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring") not applicable
 (c) Total time this commitment until release or release hearing (line a + line b) not applicable
 (d) Divide: (line c) not applicable = 0 thru 25% enter 3
 26 thru 75% enter 4
 76 thru 90% enter 5
 91% or more enter 6
- in the box at the top of page 2

DRC 2098 Revised 7/2/84

DRC Records from Court

629

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6262

Time Served (calculated at the bottom of page 1) *not applicable* #179-828

with Alcohol/Drugs *allegedly only occasional drink with Mary*

in past 5 years = 2 More than 5 years ago = 3 Never = 4

Psychological Stability (to handle lesser supervision status) *not applicable* (Death Row Status)...

Date of Report: *None* Unfavorable = 2 Favorable or (No Referral) = 4

of Most Serious Disciplinary Report (within past 12 months) *None*

Rule Violation *None* (Enter appropriate weight from Disciplinary Scale)

Comments concerning the weighting: *none*

Greatest Severity = 1 Moderate = 3 Low Severity = 4

High Severity = 2 None = 5

Frequency of Disciplinary Reports (within past 12 months)

No reports = 3 3 thru 5 reports = 1

1 thru 2 reports = 2 6 or more reports = 0

Responsibility Inmate has Demonstrated

Poor = 0 Average . . . = 2 Good . . . = 4

Family/Community Ties *no visits this year*

None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7)

9. Supervision Change Scale

(a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.

(b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
Close	11 - 19	20 - 26	27 - 30
Maximum	11 - 19	20 - 27	28 - 30

Automatic Security Level *4* Consider Supervision Increase Consider Present Supervision Consider Supervision Decrease

Death Row Status (Max 4)

SECTION C. ADMINISTRATIVE REVIEW

Type of Review: Regular ☐ Other* ☐ * Explain: _____

1. Step 1. Present Supervision Status:

MIN	L1	L2	L3

2. Step 2. Committee Options:

MED	L2	L3

CLO	L3

MAX	L3

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level <input type="checkbox"/>	Continue at present level <input type="checkbox"/>	Agree w/Form; decrease one level <input type="checkbox"/>
Disagree w/Form; continue at present level until next review <input type="checkbox"/>		Disagree w/Form; continue at present level until next review <input type="checkbox"/>

3. Comments to support "disagree": _____

4. Date of Next Review: ☐ Mo. ☐ Yr. 5. New Supervision Status

MIN	L1	L2	L3

6. Chairperson: _____ Date: _____

7. Superintendent's Action: ☐ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: _____ Date: _____

10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____ Comments: _____

DRC Records from Court

630

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6263

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIODate of Review: 5-21-87
(info.) (day) (yr.)Reviewer: E.A.W.Institution: SOCFNumber: 117-028-LName: Davis, Von C
(last) (first) (M)Date of Birth: [REDACTED]
(day) (month) (yr.)RACE: White ☐ Black ☒ Other ☐SEX: Male ☒ Female ☐HISPANIC: Yes ☐ No ☐

Present Security Status:

☐ Minimum ☒ Close ☐ Medium ☒ Maximum 4 Date Present Security Status Assigned: 1-16-87

SECTION A.

SECURITY SCORING

1. Type of Detainer: None (offense) Degree: None 0None = 0 3° Felony = 3
1° Felony & Unclassified = 7 4° Felony = 3
2° Felony = 5 Misdemeanor = 12. Severity of Current Offense: Aggr. Murder (offense) Degree: 1st 71° Felony & Unclassified = 7 3° Felony = 3
2° Felony = 5 4° Felony = 3
Misdemeanor = 1

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: not applicable (Death Row Status) 7
Months from Table 1: " "12 mos. or less. = 0 25 mos. - 60 mos. = 2 85 mos. - 108 mos. = 5
13 mos. - 24 mos. = 1 61 mos. - 84 mos. = 3 109 mos. or more = 74. Type of Prior Commitments: None = 0 Misdemeanor = 1 Felony = 3 3

5. History of Escapes/Attempts:

date of scoring: 5-21-87
date of occurrence: none
elapsed time: 0 (mos) 0 (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: None found in record 0

6. History of Violence:

date of scoring: 5-21-87
date of violence: 12-10-83
elapsed time: 5 (mos) 3 (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Instant offenses 77. SECURITY TOTAL 24

8. Security Level: Check the appropriate security level.

0 - 6 points ☐ MINIMUM 7 - 13 points ☐ MEDIUM 14 - 24 points ☐ CLOSE 25 - 38 points ☒ MAXIMUM 4

Death Row Status

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (use Tables I and II)

(a) Total months served, to date, this commitment (use Table II). not applicable

(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring").

(c) Total time this commitment until release or release hearing (line a + line b).

(d) Divide: (line c) not applicable X0 thru 25% enter 3
26 thru 75% enter 4
76 thru 90% enter 5
91% or more enter 6

in the box at the top of page 2

Time Served (calculated at the bottom of page 1) *Non-Applicable for Death Row*

Involvement with Alcohol/Drugs *Admitted excess Alcohol & Marijuana*

Within past 5 years = 2 More than 5 years ago = 3 Never = 4

3. Mental/Psychological Stability (to handle lesser supervision status) *non-Applicable to Death Row*

Date of Report: *Unfavorable* = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) *No report to date*

Rule Violation *none* (Enter appropriate weight from Disciplinary Scale)

Comments concerning the weighting: *no report in file*

Greatest Severity = 1 Moderate = 3 Low Severity = 4

High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) *none*

No reports = 3 3 thru 5 reports = 1

1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated

Poor = 0 Average = 2 Good = 4

7. Family/Community Ties *last visit (Friend: 11/12/85)*

None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) *19*

9. Supervision Change Scale

(a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.

(b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
Close	11 - 19	20 - 26	27 - 30
Maximum <i>4</i>	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

Death Row Status (Max. 4)

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review:

Regular ☐Other* ☒

* Explain:

Reclass Com. to Eval. for Level A or B Status. & possible assignment for job & program

1. Step 1. Present Supervision Status:

MIN	L1	MED	L2	CLO	L3	MAX	L4

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level <input type="checkbox"/>	Continue at present level <input type="checkbox"/>	Agree w/Form; decrease one level <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree":

4. Date of Next Review: Mo. Yr.

5. New Supervision Status

MIN	L1	MED	L2	CLO	L3	MAX	L4

6. Chairperson: Date: 7. Superintendent's Action: ☐ Approve ☐ Disapprove8. Superintendent's Comments: 9. Superintendent: Date: 10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.11. Institution Placement: Comments:

DRC Records from Court

627

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIODate of Review: 1-8-88
(mo.) (day) (yr.)Reviewer: E.A.W.Institution: SOCFName: Davis Van Clark
(last) (first) (MI)Date of Birth: [REDACTED]
(mo.) (day) (yr.)

RACE:

White ☐Black ☒Other ☐

SEX:

Male ☒Female ☐

HISPANIC:

Yes ☐No ☐

Present Security Status:

☐

Minimum

☒

Close

Maximum

Date Present Security Status Assigned: 1-16-87 (Annual Admin Review)

SECTION A.

SECURITY SCORING

1. Type of Detainer

None Indicated
(offense)Degree: 0None = 0
1° Felony & Unclassified = 7
2° Felony = 53° Felony = 3
4° Felony = 3
Misdemeanor = 1

2. Severity of Current Offense:

Aggr. Murder
(offense)Degree: 1st 01° Felony & Unclassified = 7
2° Felony = 5
Misdemeanor = 13° Felony = 3
4° Felony = 3

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: non-applicableMonths from Table 1: "Death Row Status12 mos. or less. = 0
13 mos. - 24 mos. = 125 mos. - 60 mos. = 2
61 mos. - 84 mos. = 385 mos. - 108 mos. = 5
109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escapes/Attempts:

date of scoring: 1-8-88
date of occurrence: non
elapsed time: 0
(mos) (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: none listed

6. History of Violence:

date of scoring: 1-8-88
date of violence: 12-12-83
elapsed time: 1
(mos) (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: instant offense

7. SECURITY TOTAL

94

8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM ☐7 - 13 points
MEDIUM ☐14 - 24 points
CLOSE ☒25 - 38 points
MAXIMUM ☐

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (use Tables I and II)

(a) Total months served, to date, this commitment (use Table II)

(b) Time remaining to release or release hearing (months from Section A, Line 3 "Security Scoring")

(c) Total time this commitment until release or release hearing (line a + line b)

(d) Divide: (line c) non-applicable
0 thru 25% enter 3
26 thru 75% enter 4
76 thru 90% enter 5
91% or more enter 6

in the box at the top of page 2

1. Percentage of Time Served (calculated at the bottom of page 1) *Non Applicable (Death Row Status)* 0

2. Involvement with Alcohol/Drugs *Admits Excess Alcohol & Marijuana*
 Within past 5 years = 2 More than 5 years ago = 3 Never = 4 2

3. Mental/Psychological Stability (to handle lesser supervision status) *Non Applicable (Death Row Status)* 2
 Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) *None to Date* 5
 Rule Violation *None* (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: *None*
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 *None* = 5

5. Frequency of Disciplinary Reports (within past 12 months) 3
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated 4
 Poor = 0 Average = 2 *Very Good* = 4

7. Family/Community Ties *no visits* 3
 None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) 19

9. Supervision Change Scale
 (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
Close	11 - 19	20 - 26	27 - 30
Maximum <i>4</i>	<i>11 - 19</i>	20 - 27	28 - 30
Security Level <i>Death Row Status</i>	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review: Regular ☒ Other* ☐ * Explain: _____

1. Step 1. Present Supervision Status:

MIN	L1	MED	L2	CLO	L3	MAX	L4

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input checked="" type="checkbox"/> **

3. Comments to support "disagree": *Death Row Status = Max. 4*

4. Date of Next Review: _____

Mo. _____ Yr. _____

5. New Supervision Status

MIN	L1	MED	L2	CLO	L3	MAX	L4

6. Chairperson: _____

Date: _____

7. Superintendent's Action: ☐ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: _____

Date: _____

10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____

Comments: _____

** - Record the reasons for research purposes and later submitted

DRC Records from Court

623

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIO

Date of Review: 3 (mo.) 31 (day) 89 (yr.)

Reviewer: Parker

Institution: SOEF

Number: # 179 828
 Name: Davis, Van Clark (last) (first) (M)

Date of Birth: [REDACTED] (mo.) (day) (yr.)

RACE:

White ☐

Black ☒

Other ☐

SEX:

Male ☒

Female ☐

HISPANIC:

Yes ☐

No ☒

Present Security Status:

☐ Minimum

☐ Medium

☒ Close

☐ Maximum

Date Present Security Status Assigned: 6-19-84 on arrival SOEF, D.K.

SECTION A.

SECURITY SCORING

1. Type of Detainer none (offense) Degree: 0

None = 0

1° Felony & Unclassified = 7

2° Felony = 5

3° Felony = 3

4° Felony = 3

Misdemeanor = 1

2. Severity of Current Offense: Aggravated Murder (offense) Degree: 1

1° Felony & Unclassified = 7

2° Felony = 5

Misdemeanor = 1

3° Felony = 3

4° Felony = 3

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: Death Row

Months from Table 1: Death Row

12 mos. or less = 0

25 mos. - 60 mos. = 2

85 mos. - 108 mos. = 5

13 mos. - 24 mos. = 1

61 mos. - 84 mos. = 3

109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escapes/Attempts:

date of scoring:

date of occurrence:

elapsed time:

(mos)	(yrs)

Minor

Major

None	Less than 5 years	5-10 years	10-15 years	15 years or more
0	3	2	1	1
0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring:

date of violence:

elapsed time:

(mos)	(yrs)
<u>3</u>	<u>8</u>
<u>4</u>	<u>7</u>
<u>11</u>	<u>17</u>

Minor

Major

None	Less than 5 years	5-10 years	10-15 years	15 years or more
0	3	2	1	1
0	7	6	5	4

Remarks:

7. SECURITY TOTAL

8. Security Level: Check the appropriate security level.

0 - 6 points

MINIMUM

☐

7 - 13 points

MEDIUM

☐

14 - 24 points

CLOSE

☒

25 - 38 points

MAXIMUM

☐

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (use Tables I and II)

(a) Total months served, to date, this commitment (use Table II).

(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring").

(c) Total time this commitment until release or release hearing (line a + line b).

(d) Divide: (line c) 98 = 0 thru 25% enter 3

26 thru 75% enter 4

117848 NW-1

1. Percentage of Time Served (calculated at the bottom of page 1) *Death Row* ☐ 0

2. Involvement with Alcohol/Drugs *in substance abuse prog.* ☐ 3
 Within past 5 years = 2 More than 5 years ago = 3 Never = 4

3. Mental/Psychological Stability (to handle lesser supervision status) ☐ 4
 Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) ☐ 5
 Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: _____
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) ☐ 3
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated *2nd murder sentence* ☐ C
 Poor = 0 Average = 2 Good = 4

7. Family/Community Ties ☐ 4
 None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) ☐ 19

9. Supervision Change Scale
 (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
Close	11 - 19	20 - 26	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review: Regular ☐ Other* ☐ * Explain: _____

1. Step 1. Present Supervision Status:

MIN	L1	L2	L3

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": _____

4. Date of Next Review: _____

Mo. Yr.

5. New Supervision Status

MIN	L1	L2	L3

6. Chairperson: *DE MC Graw*Date: *3/31/09*7. Superintendent's Action: ☐ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: _____

Date: _____

10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

Comments: _____

DRC Records from Court

624

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6269

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIODate of Review: 1 (mo.) 90 (day) 90 (yr.)Reviewer: ERInstitution: DOCFNumber: # 179 828Name: Davis Von Clark

(last)

(first)

(M)

Date of Birth: [REDACTED]

RACE:

White ☐Black ☒Other ☐

SEX:

Male ☒Female ☐

HISPANIC:

Yes ☐No ☐

Present Security Status:

☐

Minimum

☒

Close

Maximum

Date Present Security Status Assigned: 3-31-89

SECTION A.

SECURITY SCORING

1. Type of Detainer None

(offense)

Degree: 0

None. = 0

1° Felony & Unclassified = 7

2° Felony. = 5

3° Felony = 3

4° Felony = 3

Misdemeanor = 1

2. Severity of Current Offense: Agg. Murder

(offense)

Degree: 1°

1° Felony & Unclassified = 7

2° Felony. = 5

Misdemeanor = 1

3° Felony = 3

4° Felony = 3

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 1/1Months from Table 1: N.S.

12 mos. or less. = 0

25 mos. - 60 mos. = 2

85 mos. - 108 mos. = 5

13 mos. - 24 mos. = 1

61 mos. - 84 mos. = 3

109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escapes/Attempts:

date of scoring: 1 90date of occurrence: 7 18elapsed time: 7 (mos) 18 (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior Number 132-345

6. History of Violence:

date of scoring: 1 90date of violence: 4 71elapsed time: 7 (mos) 18 (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior Number 132-3457. SECURITY TOTAL 21

8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM ☐7 - 13 points
MEDIUM ☐14 - 24 points
CLOSE ☒25 - 38 points
MAXIMUM ☐

SECTION B.

SUPERVISION SCORING

1. Percentage of Time served (use Tables I and II)

(a) Total months served, to date, this commitment (use Table II).

(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring").

(c) Total time this commitment until release or release hearing (line a + line b).

(d) Divide: (line c) 111 / (a) 111 % = 0 thru 25% enter 3
26 thru 75% enter 4

1. Percentage of Time Served (calculated at the bottom of page 1) N.P. 0

2. Involvement with Alcohol/Drugs Admitted - in Drug Abuse Prog. 3
 Within past 5 years = 2 More than 5 years ago = 3 Never = 4

3. Mental/Psychological Stability (to handle lesser supervision status) 4
 Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) 5
 Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: _____
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) 3
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated 4
 Poor = 0 Average = 2 Good = 4

7. Family/Community Ties 4
 None or Minimal = 3 Average or Good = 4

8. **SUPERVISION SCORE TOTAL** (add lines 1 thru 7) 23

9. Supervision Change Scale
 (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review: Regular ☒ Other* ☐ * Explain: Annual

1. Step 1. Present Supervision Status:

MIN	L1	MED	L2	CLO	L3	MAX	L4

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input checked="" type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": _____

4. Date of Next Review: 1 Mo. 4 Yr. 5. New Supervision Status

MIN	L1	MED	L2	CLO	L3	MAX	L4

6. Chairperson: Oscar E. McKinnis Date: 1-10-907. Superintendent's Action: ☒ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: McKinnis Date: 1-18-9010. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____

Comments: _____

DRC Records from Court

621

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6271

SUPERVISION CLASSIFICATION FORM
DEPARTMENT OF REHABILITATION & CORRECTION
STATE OF OHIO

Date of Review: 1-10-91
(mo.) (day) (yr.)

Reviewer: DK

Institution: DOCF

Number: # 174-828
Name: Davis Von
(last) (first) (M)

Date of Birth: [REDACTED]
(mo.) (day) (yr.)

RACE: White ☐ Black ☒ Other ☐
SEX: Male ☒ Female ☐
HISPANIC: Yes ☐ No ☐

Present Security Status:

☐ Minimum ☒ Close Medium ☐ Maximum

Date Present Security Status Assigned: 1-10-90

SECTION A

SECURITY SCORING

- Type of Detainer none (offense) Degree: 0
None = 0 3° Felony = 3
1° Felony & Unclassified = 7 4° Felony = 3
2° Felony = 5 Misdemeanor = 1
- Severity of Current Offense: Agg. Murder 1° Degree: 1°
1° Felony & Unclassified = 7 3° Felony = 3
2° Felony = 5 4° Felony = 3
Misdemeanor = 1
- Time to Earliest Possible Parole Hearing or Release (See Table 1):
Month and year: 1/1
Months from Table 1: N/A
12 mos. or less = 0 25 mos. - 60 mos. = 2 85 mos. - 108 mos. = 5
13 mos. - 24 mos. = 1 61 mos. - 84 mos. = 3 109 mos. or more = 7
- Type of Prior Commitments:
None = 0 Misdemeanor = 1 Felony = 3
- History of Escapes/Attempts:
date of scoring: 1 91
date of occurrence: 1 91
elapsed time: 1 91
(mos) (yrs)
Minor Major
None Less than 5 years 5-10 years 10-15 years 15 years or more
0 3 2 1 1
0 7 6 5 4
Remarks: None
- History of Violence:
date of scoring: 1 91
date of violence: 1 91
elapsed time: 1 91
(mos) (yrs)
Minor Major
None Less than 5 years 5-10 years 10-15 years 15 years or more
0 3 2 1 1
0 7 6 5 4
Remarks: Prison Number 132-345
- SECURITY TOTAL 21
- Security Level: Check the appropriate security level.
0 - 6 points MINIMUM ☐ 7 - 13 points MEDIUM ☐ 14 - 24 points CLOSE ☒ 25 - 38 points MAXIMUM ☐

SECTION B

SUPERVISION SCORING

- Percentage of Time served (use Tables I and II)
(a) Total months served, to date, this commitment (use Table II).
(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring").
(c) Total time this commitment until release or release hearing (line a + line b).
(d) Divide: (line c) N/A (a) % = 0 thru 25% enter 3
26 thru 75% enter 4
76 thru 90% enter 5
in the box at the top of page 2

1. Percentage of Time Served (calculated at the bottom of page 1) D.R. N.A. 0

2. Involvement with Alcohol/Drugs Admitted - in drug abuse program
 Within past 5 years = 2 More than 5 years ago = 3 Never = 4 3

3. Mental/Psychological Stability (to handle lesser supervision status) 4
 Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) 3
 Rule Violation Rule 1 (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: refused direct order to move
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) 2
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated 4
 Poor = 0 Average = 2 Good = 4

7. Family/Community Ties 4
 None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) 20

9. Supervision Change Scale
 (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review:

Regular ☒Other* ☐

* Explain:

Annual Review

1. Step 1. Present Supervision Status:

MIN	L1	
	L2	

MED	L2	
	L3	

CLO	L3	
	L4	

MAX	L3	
	L4	

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input checked="" type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": _____

4. Date of Next Review: 1 90

Mo. Yr.

5. New Supervision Status

MIN	L1	
	L2	

MED	L2	
	L3	

CLO	L3	
	L4	

MAX	L3	
	L4	

6. Chairperson: Oscar E. H. HearnDate: 1-4-91

7. Superintendent's Action:

☒

Approve

☐

Disapprove

8. Superintendent's Comments: _____

9. Superintendent: Arthur J. HearnDate: 1-10-9110. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____

Comments: _____

DRC Records from Court

619

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6273

CLASSIFICATION FORM
OF REHABILITATION & CORRECTION
OHIO

Review: 1 (mo.) 92 (day) (yr.)

Reviewer: ER

Institution: DOCF

Number: # 174-040

Name: Davis (last) Von (first) (M)

Date of Birth: [REDACTED] (mo.) (day) (yr.)

RACE: White ☐ Black ☒ Other ☐

SEX: Male ☒ Female ☐

HISPANIC: Yes ☐ No ☐

Present Security Status:

☐ Minimum
☐ Medium

Close
Maximum

☒

Close

Maximum

Date Present Security Status Assigned: 1-4-91

SECTION A.

SECURITY SCORING

1. Type of Detainer none listed Degree: [REDACTED]

None = 0 3° Felony = 3
1° Felony & Unclassified = 7 4° Felony = 3
2° Felony = 5 Misdemeanor = 1

2. Severity of Current Offense: Agg. Murder / 1/2 Murder Degree: 1°

1° Felony & Unclassified = 7 3° Felony = 3
2° Felony = 5 4° Felony = 3
Misdemeanor = 1

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 1/16 Death Row

Months from Table 1: 1/16

12 mos. or less. = 0 25 mos. - 60 mos. = 2 85 mos. - 108 mos. = 5
13 mos. - 24 mos. = 1 61 mos. - 84 mos. = 3 109 mos. or more = 7

4. Type of Prior Commitments:

None = 0 Misdemeanor = 1 Felony = 3

5. History of Escapes/Attempts:

date of scoring: 1 92
date of occurrence: [REDACTED]
elapsed time: [REDACTED] (mos) (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring: 1 92
date of violence: 4 91
elapsed time: 7 20 (mos) (yrs)

	None	Less than 5 years	5-10 years	10-15 years	15 years or more
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior #

7. SECURITY TOTAL 21

8. Security Level: Check the appropriate security level.

0 - 6 points ☐ MINIMUM 7 - 13 points ☐ MEDIUM 14 - 24 points ☒ CLOSE 21 25 - 38 points ☐ MAXIMUM

SUPERVISION SCORING

SECTION B.

1. Percentage of Time served (use Tables I and II)

(a) Total months served, to date, this commitment (use Table II): [REDACTED]

(b) Time remaining to release or release hearing (months from Section A, Line 3, "Security Scoring"): [REDACTED]

(c) Total time this commitment until release or release hearing (line a + line b): [REDACTED]

(d) Divide: (line c) N.A. (a) % = 0 thru 25% enter 3
26 thru 75% enter 4
76 thru 90% enter 5

in the box at the top of page 2

1. Percentage of Time Served (calculated at the bottom of page 1) *N/A - D.R.* 3

2. Involvement with Alcohol/Drugs *Self Admitted* 3
 Within past 5 years = 2 More than 5 years ago = 3 NEVER = 4

3. Mental/Psychological Stability (to handle lesser supervision status) 4
 Date of Report: _____ Unfavorable = 2 Favorable or No Referral = 4

4. Type of Most Serious Disciplinary Report (within past 12 months) *none* 5
 Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: _____
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5

5. Frequency of Disciplinary Reports (within past 12 months) *none listed* 3
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated *I'm A.A. Program* 4
 Poor = 0 Average = 2 Good = 4

7. Family/Community Ties 4
 None or Minimal = 3 Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) 26

9. Supervision Change Scale
 (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in Line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>CLOSE</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	<u>20 - 27</u>	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SECTION C.

ADMINISTRATIVE REVIEW

Type of Review: Regular ☒ Other* ☐ * Explain: _____

1. Step 1. Present Supervision Status: MIN L1 L2 MED L2 L3 CLO L3 MAX L3 L4 *Depth Row*

2. Step 2. Committee Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form; increase one level. <input type="checkbox"/>	Continue at present level <input checked="" type="checkbox"/>	Agree w/Form; decrease one level. <input type="checkbox"/>
Disagree w/Form; continue at present level until next review. <input type="checkbox"/>		Disagree w/Form; continue at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": *D.R. INMATE*

4. Date of Next Review: 93 Mo. 93 Yr. 5. New Supervision Status MIN L1 L2 MED L2 L3 CLO L3 MAX L3 L4 ☒

6. Chairperson: *Joe S. Smith* Date: *1-14-92*

7. Superintendent's Action: ☒ Approve ☐ Disapprove

8. Superintendent's Comments: _____

9. Superintendent: *Arthur J. Smith* Date: *1/15/92*

10. Assignment requires institutional transfer no ☐; yes ☐ and submit to the Bureau of Classification & Reception for placement.

11. Institution Placement: _____ Comments: _____

SUPERVISION REVIEW FORM
DEPARTMENT OF REHABILITATION AND CORRECTION
STATE OF OHIO

Date of Review: 2 93
 (mo.) (day) (yr.)

Reviewer: QW

Institution: SOCF

Number: # 179 828

Name: Davis Von
 (last) (first) (middle)

Date of Birth: [REDACTED]
 (month) (day) (year)

RACE:

White ☐

Black ☒

Other ☐

SEX:

Male ☒

Female ☐

HISPANIC:

Yes ☐

No ☐

Present Security Status:

☐ Minimum
☐ Medium

☒ Close
☐ Maximum

Date of Last Review: 1-14-92

SECTION A.

1. Type of Detainer/Notify none listed Degree: 0
 (offense)

None = 0
 1° Felony & Unclassified = 7
 2° Felony = 5

3° Felony = 3
 4° Felony = 3
 Misdemeanor = 1

2. Severity of Current Offense: Agg. Murder / Murder Degree: 10
 (offense)

1° Felony & Unclassified = 7
 2° Felony = 5

3° Felony = 3
 4° Felony = 3

Misdemeanor = 1

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 11-91

Months from Table 1: Death Row

12 mos. or less = 0
 13 mos. - 24 mos. = 1

25 mos. - 60 mos. = 2
 61 mos. - 84 mos. = 3

85 mos. - 108 mos. = 5
 109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escape/Attempts:

date of scoring: 2 93
 date of occurrence: [REDACTED]
 elapsed time: [REDACTED]
 (mos) (yrs)

Minor
Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring: 2 93
 date of violence: 4 91
 elapsed time: 10 21
 (mos) (yrs)

Minor
Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior #

7. SECURITY TOTAL 21

8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM ☐

7 - 13 points
MEDIUM ☐

14 - 24 points
CLOSE ☒

25 - 38 points
MAXIMUM ☐

Davis

197-828

INMATE NAME

NUMBER

- Time served (use Tables 1 and 11) ☒
- Months served, to date this commitment (use Table 11) ☒
- Months remaining to release hearing (months from Section A, Line 3, "Security Scoring") ☒
- Total time this commitment until release hearing (line a + line b) ☒
- (c) Divide: (line c) N.A. (a) % = 0 thru 25% enter 3
 26 thru 75% enter 4 in the box on line below.
 76 thru 90% enter 5
 91% or more enter 6
1. Points allowed for percent of Time Served (calculated on line 1.) ☒ 3
2. Involvement with Alcohol/Drug abuse ☒ 3
Self Admitted
 Within past 5 years = 2 More than 5 years = 3 Never = 4
3. Stability (to handle lesser supervision status) ☒ 4
 Unfavorable = 2 Favorable = 4
4. Type of Most Serious Disciplinary Report (within past 12 months) ☒ 5
 Rule Violation (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting:
- Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5
5. Frequency of Disciplinary Reports (within past 12 months) ☒ 3
No reports
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0
6. Responsibility Inmate has Demonstrated ☒ 4
 Poor = 0 Average = 2 Good = 4
7. Family/Community Ties ☒ 4
 None or Minimal = 3 Average or Good = 4
8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) ☒ 26
9. Supervision Change Scale
- (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

REVIEW

INMATE NAME Davis NUMBER 179-828

Review: Regular ☒ Other* ☐ * Explain: None

1. Step 1. Present Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
-----	----	--------------------------

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

2. Committee options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form: <u>increase</u> one level. <input type="checkbox"/>	Agree w/Form: <u>continue</u> at present level. <input checked="" type="checkbox"/>	Agree w/Form: <u>decrease</u> one level. <input type="checkbox"/>
Disagree w/Form: <u>continue</u> at present level until new review. <input type="checkbox"/> **	Disagree w/Form: <u>decrease</u> one level. (For minimum Level 1 only) <input type="checkbox"/> **	Disagree w/Form: <u>continue</u> at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": D.R. Thomas Jr. MAX-4

4. Recommended New Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
-----	----	--------------------------

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

5. Chairperson: He [Signature]Date: 2-23-93

6. Warden's Action:

APPROVE ☒DISAPPROVE ☐

7. Warden's Comments:

8. Warden: Arthur Tate Jr.Date: 2/23/93

9. Assignment requires transfer:

YES ☐NO ☒

10. Prior Psych Hospital and/or current Psych meds:

YES ☐NO ☐11. Medical Level: ☐

SUBMIT TO THE BUREAU OF CLASSIFICATION AND RECEPTION for placement if # 9 marked "yes"

12. Date of Next Review:

2 Mo.94 Yr.

13. Bureau of Classification and Reception Action:

APPROVE ☐DISAPPROVE ☐

14. Institutional Placement Assigned by the Bureau of Classification and Reception:

15. Bureau's Comments:

16. Date Reviewed by the Bureau:

** Record the reasons for research purposes and later reporting.

INSTITUTION AND CORRECTION

Number: # 179-828

Name: Davis Von (first) (middle)

Date of Birth: [REDACTED] (year)

RACE: White ☐ Black ☒ Other ☐

SEX: Male ☒ Female ☐

HISPANIC: Yes ☐ No ☐

Reviewer: EN

Institution: JOCK

Present Security Status:

☐ Minimum ☐ Close ☒ Medium ☒ Maximum

Date of Last Review: 2-23-93

SECTION A.

1. Type of Detainer/Notify none listed Degree: 2
- None = 0 3° Felony = 3
 1° Felony & Unclassified = 7 4° Felony = 3
 2° Felony = 5 Misdemeanor = 1
2. Severity of Current Offense: Agg. Murder / Murder Degree: 1°
- 1° Felony & Unclassified = 7 3° Felony = 3
 2° Felony = 5 4° Felony = 3
 Misdemeanor = 1

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 1 P.A. Death RowMonths from Table 1: 7

12 mos. or less = 0 25 mos. - 60 mos. = 2 85 mos. - 108 mos. = 5
 13 mos. - 24 mos. = 1 61 mos. - 84 mos. = 3 109 mos. or more. = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escape/Attempts:

date of scoring: 3 94date of occurrence: [REDACTED]elapsed time: [REDACTED]

(mos) (yrs)

Minor

Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring: 3 94date of violence: 4 71elapsed time: 9 22

(mos) (yrs)

Minor

Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior #

7. SECURITY TOTAL

8. Security Level: Check the appropriate security level.

0 - 6 points

MINIMUM ☐

7 - 13 points

MEDIUM ☐

14 - 24 points

CLOSE ☒

25 - 38 points

MAXIMUM ☐

SECTION B.

INMATE NAME

NUMBER

Percentage of Time served (use Tables 1 and 11)

(a) Total months served, to date this commitment (use Table 11)

(b) Time remaining to release hearing (months from Section A, Line 3, "Security Scoring")

(c) Total time this commitment until release hearing (line a + line b)

(d) Divide: (line c) M.D. / (a) _____ % = 0 thru 25% enter 3
 26 thru 75% enter 4 in the box on line below.
 76 thru 90% enter 5
 91% or more enter 6

Points allowed for percent of Time Served (calculated on line 1.)

2. Involvement with Alcohol/Drug abuse

Within past 5 years = 2

More than 5 years = 3

Never = 4

3. Stability (to handle lesser supervision status)

Unfavorable = 2

Favorable = 4

4. Type of Most Serious Disciplinary Report (within past 12 months)

Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)

Comments concerning the weighting: _____

Greatest Severity = 1

Moderate = 3

Low Severity = 4

High Severity = 2

None = 5

5. Frequency of Disciplinary Reports (within past 12 months)

No reports = 3

3 thru 5 reports = 1

1 thru 2 reports = 2

6 or more reports = 0

6. Responsibility Inmate has Demonstrated

Poor = 0

Average = 2

Good = 4

7. Family/Community Ties

None or Minimal = 3

Average or Good = 4

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7)

9. Supervision Change Scale

(a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.

(b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum

11 - 19

20 - 22

23 - 30

Medium

11 - 19

20 - 24

25 - 30

Close

11 - 19

20 - 26

27 - 30

Maximum

11 - 19

20 - 27

28 - 30

Security

Consider Supervision

Consider Present

Consider Supervision

Level

Increase

Supervision

Decrease

SUPERVISION REVIEW FORM
 DEPARTMENT OF REHABILITATION AND CORRECTION
 STATE OF OHIO

Date of Review: 1 (mo.) 95 (day) (yr.)

Reviewer: ER

Institution: SOCK

Present Security Status:

☐ Minimum
☐ Medium

☐ Close
☒ Maximum

Date of Last Review: 3-11-94

Number: # 179-828

Name: Davis Von (last) (middle)

Date of Birth: [REDACTED] (day) (month) (year)

RACE:

White ☐
Black ☒
Other ☐

SEX:

Male ☒
Female ☐

HISPANIC:

Yes ☐
No ☐

SECTION A.

1. Type of Detainer/Notify none listed Degree: 0

None = 0
1° Felony & Unclassified = 7
2° Felony = 5

3° Felony = 3
4° Felony = 3
Misdemeanor = 1

2. Severity of Current Offense: Agg. Murder 1st Degree: 1°

1° Felony & Unclassified = 7
2° Felony = 5

Misdemeanor = 1

3° Felony = 3
4° Felony = 3

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 12/95 Death Row
Months from Table 1: 12/95

12 mos. or less = 0
13 mos. - 24 mos. = 1

25 mos. - 60 mos. = 2
61 mos. - 84 mos. = 3

85 mos. - 108 mos. = 5
109 mos. or more. = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escape/Attempts:

date of scoring: 1 95
date of occurrence: 1 95
elapsed time: 1 (mos) 95 (yrs)

Minor
Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring: 1 95
date of violence: 4 91
elapsed time: 9 (mos) 23 (yrs)

Minor
Major

	NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
Minor	0	3	2	1	1
Major	0	7	6	5	4

Remarks: Prior # 1

7. SECURITY TOTAL

8. Security Level: Check the appropriate security level.

0 - 6 points
MINIMUM ☐

7 - 13 points
MEDIUM ☐

14 - 24 points
CLOSE ☒

25 - 38 points
MAXIMUM ☐

Davis

INMATE NAME

179-828

NUMBER

1. Commitment (use Table 11) ☒
 2. Hearing (months from Section A, Line 3, "Security Scoring") ☒
 3. Sent until release hearing (line a + line b) ☒
 4. % = 0 thru 25% enter 3
 26 thru 75% enter 4 in the box on line below.
 76 thru 90% enter 5
 91% or more enter 6
 5. Points allowed for percent of Time Served (calculated on line 1.) ☒ 3
 6. Involvement with Alcohol/Drug abuse Self admitted ☒ 3
 Within past 5 years = 2 More than 5 years = 3 Never = 4
 7. Stability (to handle lesser supervision status) ☒ 4
 Unfavorable = 2 Favorable = 4
 8. Type of Most Serious Disciplinary Report (within past 12 months) ☒ 5
 Rule Violation _____ (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting: _____
 Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = 5
 9. Frequency of Disciplinary Reports (within past 12 months) None listed ☒ 3
 No reports = 3 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0
 10. Responsibility Inmate has Demonstrated ☒ 4
 Poor = 0 Average = 2 Good = 4
 11. Family/Community Ties ☒ 4
 None or Minimal = 3 Average or Good = 4
 12. SUPERVISION SCORE TOTAL (add lines 1 thru 7) ☒ 26
 13. Supervision Change Scale

- (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
 (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

INMATE NAME

NUMBER

Other * ☐

* Explain: _____

Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
	L4	<input type="checkbox"/>

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

Options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form: <u>increase</u> one level. <input type="checkbox"/>	Agree w/Form: <u>continue</u> at present level. <input checked="" type="checkbox"/>	Agree w/Form: <u>decrease</u> one level. <input type="checkbox"/>
Disagree w/Form: <u>continue</u> at present level until new review. <input type="checkbox"/> **	Disagree w/Form: <u>decrease</u> one level. (For minimum Level 1 only) <input type="checkbox"/> **	Disagree w/Form: <u>continue</u> at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": Death Row Status

4. Recommended New Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
	L4	<input type="checkbox"/>

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

5. Chairperson: Jack B. WilliamsDate: Jan 5, 1995

6. Warden's Action:

APPROVE ☒DISAPPROVE ☐

7. Warden's Comments: _____

8. Warden: J. WilliamsDate: 1-5-95

9. Assignment requires transfer:

YES ☐NO ☒

10. Prior Psych Hospital and/or current Psych meds:

YES ☐NO ☐11. Medical Level: ☐

SUBMIT TO THE BUREAU OF CLASSIFICATION AND RECEPTION for placement if # 9 marked "yes"

12. Date of Next Review:

Mo. 06Yr. 95

13. Bureau of Classification and Reception Action:

APPROVE ☒DISAPPROVE ☐14. Institutional Placement Assigned by the Bureau of Classification and Reception: Remain SPC, Max

15. Bureau's Comments: _____

16. Date Reviewed by the Bureau: 1-25-95

** Record the reasons for research purposes and later reporting.

DRC 2-138

DRC Records from Court

609

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6283

CORING **ADMINISTRATIVE REVIEW**

SECTION C.

Type of Review: Regular ☒ Other ☐ Explain: _____

1. Step 1. Present Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
	L4	<input type="checkbox"/>

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

2. Committee options:

a. Form indicates Supervision INCREASE	b. Form indicates Supervision CONTINUANCE	c. Form indicates Supervision DECREASE
Agree w/Form: <u>increase</u> one level. <input type="checkbox"/>	Agree w/Form: <u>continue</u> at present level. <input checked="" type="checkbox"/>	Agree w/Form: <u>decrease</u> one level. <input type="checkbox"/>
Disagree w/Form: <u>continue</u> at present level until new review. <input type="checkbox"/> **	Disagree w/Form: <u>decrease</u> one level. (For minimum Level 1 only) <input type="checkbox"/> **	Disagree w/Form: <u>continue</u> at present level until next review. <input type="checkbox"/> **

3. Comments to support "disagree": _____

4. Recommended New Supervision Status:

MIN	L1	<input type="checkbox"/>
	L2	<input type="checkbox"/>

MED	L2	<input type="checkbox"/>
	L3	<input type="checkbox"/>

CLO	L3	<input type="checkbox"/>
	L4	<input type="checkbox"/>

MAX	L3	<input type="checkbox"/>
	L4	<input checked="" type="checkbox"/>

5. Chairperson: [Signature] Date: 3/11/94

6. Warden's Action: APPROVE ☒ DISAPPROVE ☐

7. Warden's Comments: _____

8. Warden: [Signature] Date: 3-11-94

9. Assignment requires transfer: YES ☐ NO ☒

10. Prior Psych Hospital and/or current Psych meds: YES ☐ NO ☐

11. Medical Level: ☐
SUBMIT TO THE BUREAU OF CLASSIFICATION AND RECEPTION for placement if # 9 marked "yes"

12. Date of Next Review: 3 Mo. 9 Yr.

13. Bureau of Classification and Reception Action: APPROVE ☐ DISAPPROVE ☐

14. Institutional Placement Assigned by the Bureau of Classification and Reception: _____

15. Bureau's Comments: _____

16. Date Reviewed by the Bureau: _____

** Record the reasons for research purposes and later reporting.

DRC Records from Court

610

SUPERVISION REVIEW FORM
DEPARTMENT OF REHABILITATION AND CORRECTION
STATE OF OHIO

Date of Review: 4 97
 (mo.) (day) (yr.)

Reviewer: W. S. Miller

Institution: Manitowish

Present Security Status:

☐ Minimum ☐ Close
☐ Medium ☒ Maximum

Date of Last Review: 1/95

Number: # 419-828

Name: Davis Von
 (first) (middle)

Date of Birth: [REDACTED]
 (month) (day) (year)

RACE:

White ☐

Black ☒

Other ☐

SEX:

Male ☒

Female ☐

HISPANIC:

Yes ☐

No ☒

SECTION A:

1. Type of Detainer/Notify _____ Degree: _____
 (offense)

None = 0

1° Felony & Unclassified = 7

2° Felony = 5

3° Felony = 3

4° Felony = 3

Misdemeanor = 1

2. Severity of Current Offense: Agg Murder Degree: 1°
 (offense)

1° Felony & Unclassified = 7

2° Felony = 5

3° Felony = 3

4° Felony = 3

Misdemeanor = 1

3. Time to Earliest Possible Parole Hearing or Release (See Table 1):

Month and year: 1/97

Months from Table 1: 12

12 mos. or less = 0

13 mos. - 24 mos. = 1

25 mos. - 60 mos. = 2

61 mos. - 84 mos. = 3

85 mos. - 108 mos. = 5

109 mos. or more = 7

4. Type of Prior Commitments:

None = 0

Misdemeanor = 1

Felony = 3

5. History of Escape/Attempts:

date of scoring:

date of occurrence:

elapsed time:

(mos)	(yrs)

Minor

Major

NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
0	3	2	1	1
0	7	6	5	4

Remarks:

6. History of Violence:

date of scoring:

date of violence:

elapsed time:

4	97
4	71
(mos)	(yrs)

Minor

Major

NONE	LESS THAN 5 YEARS	5 - 10 YEARS	10 - 15 YEARS	15 YEARS OR MORE
0	3	2	1	1
0	7	6	5	(4)

Remarks:

7. SECURITY TOTAL

8. Security Level: Check the appropriate security level.

0 - 6 points

MINIMUM ☐

7 - 13 points

MEDIUM ☐

14 - 24 points

CLOSE ☒

25 - 38 points

MAXIMUM ☐

Davis 179-828
INMATE NAME NUMBER

..... served (use Tables 1 and 11) N/A

..... served, to date this commitment (use Table 11)

..... to release hearing (months from Section A, Line 3, "Security Scoring")

..... this commitment until release hearing (line a + line b)

line c) (a) % = 0 thru 25% enter (3)
 26 thru 75% enter 4 in the box on line below.
 76 thru 90% enter 5
 91% or more enter 6

..... allowed for percent of Time Served (calculated on line 1.) 3

..... involvement with Alcohol/Drug abuse SOC: SUM 3
 Within past 5 years = 2 More than 5 years = (3) Never = 4

..... Stability (to handle lesser supervision status) 4
 Unfavorable = 2 Favorable = (4)

4. Type of Most Serious Disciplinary Report (within past 12 months) 5
 Rule Violation (Enter appropriate weight from Disciplinary Scale)
 Comments concerning the weighting:

Greatest Severity = 1 Moderate = 3 Low Severity = 4
 High Severity = 2 None = (5)

5. Frequency of Disciplinary Reports (within past 12 months) 3
 No reports = (3) 3 thru 5 reports = 1
 1 thru 2 reports = 2 6 or more reports = 0

6. Responsibility Inmate has Demonstrated DR 3. partial 11
 Poor = 0 Average = 2 Good = (4)

7. Family/Community Ties 4
 None or Minimal = 3 Average or Good = (4)

8. SUPERVISION SCORE TOTAL (add lines 1 thru 7) 26

9. Supervision Change Scale

- (a) Circle below the inmate's Security Level from Page 1, Section A, Line 8.
- (b) Circle the Corresponding set of numbers within that horizontal row which includes the score determined above in line 8, Section B. The remark found below the vertical column in which Supervision Score is located suggests the possible supervision determination.

Minimum	11 - 19	20 - 22	23 - 30
Medium	11 - 19	20 - 24	25 - 30
<u>Close</u>	11 - 19	<u>20 - 26</u>	27 - 30
Maximum	11 - 19	20 - 27	28 - 30
Security Level	Consider Supervision Increase	Consider Present Supervision	Consider Supervision Decrease

SUPERVISION REVIEW FORM
DEPARTMENT OF REHABILITATION AND CORRECTION
STATE OF OHIODate of Review: 6 14 2000
(mo.) (day) (yr.)Reviewer: GA MORROWInstitution: MAUCINumber: # A179 - P2BName: DAVIS VON
(first) (middle)Date of Birth: [REDACTED]
(month) (day) (year)

RACE:

White ☐Black ☒Other ☐

SEX:

Male ☒Female ☐

HISPANIC:

Yes ☐No ☒

Present Security Status:

Minimum Level 1: ☐ Medium: ☐ High Close: ☐ High Maximum: ☐Minimum Level 2: ☐ Close: ☐ Maximum: ☒Date of Last Review: 4/97

Section I A UNFAVORABLE BEHAVIOR

WEIGHT

SCORE

1. FINDING BY RULES INFRACTION BOARD (since last review)

Not Heard by RIB/Found Not Guilty

0

☐

Found Guilty by RIB

2

2. ADMINISTRATIVE/LOCAL CONTROL PLACEMENTS (since last review)

None

0

☐

One or More

3

3. MOST RECENT VIOLENCE INDICATOR (last 5 years)

(Includes pre-prison, current offense, institutional violence)

No Violence in Last 60 Months

0

☐

Violent Conviction/Infraction Within Past 25-60 Months

1

Violent Conviction/Infraction Within Past 24 Months

2

4. FREQUENCY OF GUILTY CLASS II DISCIPLINARY REPORTS (since last review)

None

0

☐

1 - 2

1

3 - 5

2

6 or More

3

SECTION I A SUBTOTAL SCORE (Items 1-4)

☐

Section I B STABILITY FACTORS

WEIGHT

SCORE

5. EDUCATIONAL ATTAINMENT (pre-prison and during incarceration)

High School Diploma/GED/Higher Education

-1

☐

Less Than High School Equivalency

0

6. INSTITUTIONAL JOB PERFORMANCE (since last review)

No Job Removal/Removed for Other Reasons

-1

☐

Removed for Discipline (Including Non-Job Related Behavior),

0

or Indication of Poor Job Performance

7. AGE AT THIS REVIEW

Age 40 or Older

-1

☐

Age 39 or Younger

0

SECTION I B SUBTOTAL SCORE (Items 5-7)

☐

TOTAL SCORE (Items 1-7) COMBINED SUBTOTALS:

☐

(-3 - -1 POINTS)

Consider Supervision Decrease

(0 - 4 POINTS)

Consider Present Supervision

(5 - 10 POINTS)

Consider Supervision Increase

DRC Records from Court

600

VON CLARK DAVIS v. WARDEN

CASE NO. 2:16-cv-00495

APPENDIX - Page 6287

Recommendations)

Number: # A179 - 928Name: DAVIS (last) Von (first)Considering
Decrease
(3 - 1)Score Indicates Considering
Present Supervision
(0 - 4)Score Indicates Considering
Supervision Increase
(5 - 10)Decrease One Level ☐Disagree: Continue Present Level ☒a. Agree: Continuation ☐b. Disagree:
Decrease One Level ☐
Increase One Level ☐a. Agree: Increase One Level ☐b. Disagree: Continue Present Level ☐

2. Check (✓) all the Special Management Concerns which Apply to this Inmate for Purposes of Overriding Scored Level:

Minimum Level 1
Non-Discretionary Overrides

- ☐ Sex offender
☐ Kidnapping or abduction offense
☐ High notoriety case inmate

Minimum Level 2
Non-Discretionary Overrides

- ☐ Any felony for causing death of a law enforcement officer or another person while incarcerated.
☐ Convicted of any capital offense, including former death row inmates.
☐ Documented history of escape.
☐ Medium security inmate serving indefinite sentence for an F1 or F2 and has not had statutory first parole board hearing.

Discretionary Overrides

- ☐ Time left to serve
☐ Severity of current offense
☐ Extensive criminal history
☐ Good conduct

☒ Other DE/INMATE☐ Other _____☐ Other _____Higher Custody
Discretionary Overrides

- ☐ Meets criteria for placement in high close.
☐ Conduct or presence poses a serious threat to physical safety of any person, or security of prison.
☐ Nature of offense indicates inmate poses a serious threat to the physical safety of any person, or security of prison
☐ Participated in, threatened to participate in or is encouraging a disturbance or riot.
☐ Conspired to introduce contraband which may pose serious threat to security.
☐ Functions as a leader or enforcer of a security threat group.
☐ Poses a serious threat of escape.
☐ Ability to compromise integrity of staff.

3. Override of Review Score is Recommended: ☒ Yes ☐ NoIf yes, give rationale (required): DE Inmates are max status

4. Recommended Placement (check appropriate box):

Minimum Level 1: ☐Medium: ☐High Close: ☐High Maximum: ☐Minimum Level 2: ☐Close: ☐Maximum: ☒

Chairperson (Signature):

Date:

[Signature]6/14/005. Warden's Action: Approve: ☒ Disapprove: ☐6. Warden's Comments: Continue at Max supervision - Death Row inmate.

7. Warden (Signature):

Date:

Monica A. Beale, Warden6/14/00

CLASSIFICATION CONFERENCE

NUMBER: A179-828 DATE: 6/20/00
 PRESENT SUPERVISION STATUS MAX INTERVIEWER: CA Morrow
 DOCUMENTATION PROVIDED BY INMATE _____

INMATE STATEMENT CONCERNING SUPERVISION STATUS _____

GENERAL COMMENTS _____

COMMITTEE DATE: 6/20/00 RECOMMENDED ACTION Max - De
CA Morrow J. S. Srinivasan Stephen Barry
 APPEAL RIGHTS:

- 1) You may appeal this action to the Warden or his designee within 24-hours by kite.
- 2) You may appeal this action to the Bureau of Classification within five working days.

DATE OF NOTIFICATION TO INMATE _____

INMATE SIGNATURE _____

CC: INMATE (retain for your records)

MASTER POCKET

UNIT POCKET

pts: -2
 P.B. date: _____
 % of time: _____
 next review: 6/20/01

NOTIFICATION OF CLASSIFICATION CONFERENCE

NAME: _____ LOCK: _____

NUMBER: _____ BED: _____

You are scheduled for a review conference regarding security status on:

DATE: _____ TIME: _____ PLACE: _____

CLASSIFICATION CONFERENCEDATE: 6/20/00328INTERVIEWER: CA MORROWSUPERVISION STATUS MAX

ACTION PROVIDED BY INMATE _____

STATEMENT CONCERNING SUPERVISION STATUS _____

GENERAL COMMENTS _____

COMMITTEE DATE: 6/20/00RECOMMENDED ACTION Max - DR

APPEAL RIGHTS:

- 1) You may appeal this action to the Warden or his designee within 24-hours by kite.
- 2) You may appeal this action to the Bureau of Classification within five working days.

DATE OF NOTIFICATION TO INMATE _____

INMATE SIGNATURE _____

CC: INMATE (retain for your records)

MASTER POCKET

UNIT POCKET

pts: -2

P.B. date: _____

% of time: _____

next review: 6/2001**NOTIFICATION OF CLASSIFICATION CONFERENCE**

NAME: _____

LOCK: _____

NUMBER: _____

BED: _____

You are scheduled for a review conference regarding security status on:

DATE: _____ TIME: _____ PLACE: _____

JUNIOR HIGH SCHOOL RECORD CARD

Home room - Teacher's name 7th										Section	
Last	First	8th	Middle	9th	Birth, mo.		1st Sem. 2d Sem.				
Pupil DAVIS, VON							7th				
Sex M	Color C	Place of Birth Hamilton, O.		Yrs. in Hamilton Schools 8		8th		8	6		
Own (Step) Father Charles Tipton	Occupation	Business Address		Phone		9th					
Own (Step) Mother Alluster Tipton	Occupation	Business Address		Phone						3-0925	
Guardian	Occupation	Business Address		Phone						5-8409	
Other Children at home	Brothers older	younger	Sisters older	younger	Live with				Phone		
Years spent in grades	Kind.	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Ninth	
Entered from Harding	Date 9/6/61				Own or rent house						
Favorite Sports	Hobby				No. of rooms in house						
Ambition	Health				Ex.	Good	Fair	Poor			
Traveled											
Address	Church attended				Are you a member		yes	no			
Vaccinated for sma	Number of Polio Shots				1	2	3	4			



JUNIOR HIGH SCHOOL RECORD CARD

Home room - Teacher's name 7th										Section	
Last	First	8th	Middle	9th	Birth, mo.		1st Sem. 2d Sem.				
Pupil Davis, Von		Clark					7th				
Sex M	Color M	Place of Birth Hamilton		Yrs. in Hamilton Schools 7		8th					
Own (Step) Father Charles T	Occupation Inspector	Business Address		Phone		9th					
Own (Step) Mother Alberta	Occupation HWife	Business Address		Phone							
Guardian	Occupation	Business Address		Phone							
Other Children at home 6	Brothers older 3	younger	Sisters older 3	younger	Live with Parents		Phone 5-8409				
Years spent in grades	Kind.	First 1	Second 1	Third 1	Fourth 1	Fifth 1	Sixth 1	Seventh 2	Eighth	Ninth	
Entered from Roosevelt	Date 9/7/60				Own or rent house		rent				
Favorite Sports Football	Hobby				No. of rooms in house		6				
Ambition Engineer	Health				Ex.	Good	Fair	Poor			
Traveled Arkansas											
Address	Church attended 2nd Baptist				Are you a member		yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>			
Vaccinated for smallpox	yes										

Trans. sent 5/10/71 Ohio Penitentiary

Picture

Davis, V on Clark

Transferred to Penitentiary School

002759

Name: DAVIS, VON														Withdrawn		Reentered		Graduated	
SUBJECTS	7B	7A	7B	7A	8B	8A	8B	8A	9B	9A	9B	9A	Credit	TEST	Date	Test	% ILE		
English					70	75			69	60			-0-	Pre-Algebra					
History														Pre-Geom.					
Geography					74	82								Vocabulary					
Arithmetic					75	78			79	79			1	Reading					
Civics														Spelling					
General Science					60	67			60	66			-0-	Capitalization					
Algebra														Punctuation					
Shop Math.														Usage					
Business Training									70	48			1/4	Work Study Skill					
For. Language														Arith. Concepts					
Speech Dramatics														Arith. Problems					
Industrial Arts					75	70													
Home Economics																			
Chorus					67														
Glee Club																			
Band																			
Orchestra																			
Journalism																			
Typing									71	66			-0-						
Art					81	87			85	73			1/4						
Health					P	P			P	P			1/4						
Phys. Ed.					85	85			83	85			1/4						
SEM. AVERAGE					71.95	70.75													

DAVIS VON

FALL [confused]

Name: Davis, Von Clark														Withdrawn		Reentered		Graduated	
SUBJECTS	7B	7A	7B	7A	8B	8A	8B	8A	9B	9A	9B	9A	Credit	Date	TEST	Rank	%-ile	G.E.	
English	89	86													Pre-Algebra				
History	78	70													Pre-Geom.				
Geography															Reading				
Arithmetic	85	65													Vocab.				
Civics	80	80													Arith. Fund.				
Ind. Arts															Arith. Prob.				
Home Ecs.	91	75													English				
Music Chorus	77	77													Literature				
Phys. Ed.	86	80													History				
Health	85	95													Geography				
Art	74	80													Social Studies				
Orchestra															Science				
Band															Spelling				
Glee Club															Ave. Achieve.				
General Sc.																			
Average		76.4																	
ATTENDANCE														Typing					
														Bus. Tr.					
Days Enrolled	7	7	8	8	9	9								Algebra					
Days Absent														Math. I					
Days Tardy														Lat. or Span.					
														Shop Math.					

002760

OHIO PENITENTIARY

Enrollment
Termination
Rejection

TO: Associate Warden-Treatment

SUBJECT: Program Report

RE: _____

The above inmate was (enrolled/enrolled) on 11-29-71

in Spanish

ATTENDANCE: 85 of 90 sessions

FINAL GRADE: Passing

TERMINATION DATE: 2-2-72

REASON FOR TERMINATION: End of Term

REMARKS: Regular attendance and ability to do the work were demonstrated by this student.

Submitted by: _____

Signature Mr. Minelli

Distribution: Record Office
Associate Warden-T
Classification
Psych Service
File

Title Teacher

Dept. Capital School

Date 2-2-72

OHIO PENITENTIARY

Enrollment
Termination
Rejection

TO: Associate Warden-Treatment

SUBJECT: Program Report

RE: _____

The above inmate was (enrolled/enrolled) on _____

in _____

ATTENDANCE: _____ of _____ sessions

FINAL GRADE: _____

TERMINATION DATE: _____

REASON FOR TERMINATION: _____

REMARKS: _____

Submitted by: _____

Signature _____

Distribution: Record Office
Assoc. Warden-T
Psych. Service
File
Classification

Title _____

Dept. _____

Date 2-2-72

861

DRC Records from Court

OHIO PENITENTIARY

Enrollment
 Associate Warden-Treatment
 Termination
 SUBJECT: Program Report
 Rejection

RE:

The above inmate was (interviewed/enrolled) on _____
 in _____

ATTENDANCE: _____ of _____ sessions

FINAL GRADE: _____

TERMINATION DATE: _____

REASON FOR REJECTION/TERMINATION: _____

REMARKS: _____

Submitted by: _____
 Signature _____
 Title _____
 Dept. _____
 Date _____

Distribution:
 Record Office
 Assoc. Warden-T
 Psych. Service
 File
 Classification

OHIO PENITENTIARY

Enrollment
 TO: Associate Warden-Treatment
 Termination
 SUBJECT: Program Report
 Rejection

RE:

The above inmate was (interviewed/enrolled) on _____
 in _____

ATTENDANCE: _____ of _____ sessions

FINAL GRADE: _____

TERMINATION DATE: _____

REASON FOR REJECTION/TERMINATION: _____

REMARKS: _____

Submitted by: _____
 Signature _____
 Title _____
 Dept. _____
 Date _____

Distribution:
 Record Office
 Assoc. Warden-T
 Psych. Service
 File
 Classification

862

DRC Records from Court



W. W. ESSEX
SUPERINTENDENT OF
PUBLIC INSTRUCTION

STATE OF OHIO
DEPARTMENT OF EDUCATION
COLUMBUS

March 6, 1972

DIVISION OF GUIDANCE AND TESTING
KENNETH W. RICHARDS, DIRECTOR
(614) 469-4590

GUIDANCE FIELD SERVICES
469-2103

GUIDANCE PROGRAM DEVELOPMENT SERVICES
469-4868

OHIO TESTING SERVICES AND GED TESTING
469-2471

751 NORTHWEST BOULEVARD
COLUMBUS OHIO 43212

STATEMENT OF EQUIVALENCE FOR GRADE 9

#132-345

File me

Mr. Von Davis
Box 511
Columbus, Ohio 43216

Dear Mr. Davis:

This is your Statement of Equivalence for Grade 9 which you have successfully completed.

To be eligible for a Statement of Equivalence a person must achieve the following minimum standard score for each subtest and average standard score for all tests for the grade level of equivalence sought:

<u>Grade Level</u>	<u>Subtest Score</u>	<u>Average Standard Score</u>
8-	52	68
9-	60	76
10-	66	82

As indicated on the score report below, you have met these requirements.
Standard Score

Subtest 1: Verbal	86
Subtest 2: Arithmetic	82
Subtest 3: Social Studies	89
Subtest 4: Science	67
Average Standard Score	81

We are happy to certify that you have successfully completed these tests and are entitled to this Statement of Equivalence.

Cordially,

Paul E. Kohli
State Administrator
GED TESTING PROGRAM

PEK:ef

LONDON CORRECTIONAL INSTITUTION

From School Department

This is to certify VON CLARK DAVIS 132-345 has
enrolled in/~~from~~ XXXX High School ; Sept. 6 19 72
Program Date

REMARK:

4 credits granted on basis of 9th grade equivalency.

RECEIVED

SEP121972

LONDON CORRECTIONAL INSTITUTION
SCHOOL DEPARTMENT



L.M. Roudebush
Director of Education

LONDON CORRECTIONAL INSTITUTION

From School Department

This is to certify Davis 132 345 has
enrolled in 1968 Basic Skills ; Oct. 6, 1972
Program Date

REMARK:

P. E. Babb
C.E. Babb, Supervisor Basic Skills

RECEIVED

OCT 30 1972

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

L.M. Roudebush
Director of Education

LONDON CORRECTIONAL INSTITUTION


FROM SCHOOL DEPARTMENT

This is to certify DAVIS 132-345 has

ENROLLED in ~~from~~ AUTO BODY MECHANICS ;
Program

12-6 19 72
Date

REMARK:


L.M. Roubesh
Director of Education

RECEIVED
DEC 11 1972

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

LONDON CORRECTIONAL INSTITUTION


FROM SCHOOL DEPARTMENT


This is to certify Davis 132 345 has

completed ~~from~~ Phase I Basic Skills
Program

Dec. 23 19 72
Date

REMARK: Practical in his application of training.. Maintains interest and an industrious attitude in all class assignments. Final grade average 81. One unexcused absence. Qualifies to continue Phase II.


G.E. Babb
Supervisor, Basic Skills


L.M. Roubesh
Director of Education

RECEIVED
JAN 8 1973

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

LONDON CORRECTIONAL INSTITUTION

FROM SCHOOL DEPARTMENT

This is to certify Davis 132 345 has
completed in/from Basic Skills Phase II;
March 30 19 73
Date
Program

REMARK:

P.E. Babb

C.E. Babb
Supervisor, Basic Skills



L.M. Roudebush
Director of Education

RECEIVED

APR 16 1973

LONDON CORRECTIONAL INSTITUTION
RECORDS DEPARTMENT

DRC Records from Court

694

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6300

T. Cazad
T. Cazad, Instructor

L.N. Roudebush
L.N. Roudebush
Dir of Educ

SCHOOL PROGRESS REPORT

Auto Body Mechanics
PROGRAM INVOLVED

NAME Davis

NO. 132-345

ENROLLMENT PERIOD: 12-12 19 72 thru 2-13-73

GRADE LEVEL (ACADEMIC)

ABSENCES: EXCUSED 1

UNEXCUSED 1

ITEMS EVALUATED	ABOVE AVE.	AVE.	POOR	COMMENTS OR DOES APPLY
1. ACHIEVEMENT TO DATE	X			
2. EFFORT	X			
3. INITIATIVE	X			
4. COOPERATION	X			
5. ATTENDANCE				
6. STABILITY	X	X		
7. INTEGRITY	X			
8. MOTIVATION	X			
9. RESPONSIBILITY	X			
10. RELIABILITY	X			
11. BEHAVIOR (COURTESY TO INSTRUCTOR)	X			
12. SERIOUSNESS	X			
13. SELF-RELIANCE	X			
14. PREPARATION	X			
15. STUDY SKILLS	X			
16. CONTRIBUTION TO CLASS	X			
17. INTEREST	X			
18. PROGRESS	X			
19. ABILITY	X			
20. COMPATIBILITY (WORKING WITH CLASSMATES)	X			
21. FOLLOW INSTRUCTIONS	X			
22. DESIRE TO IMPROVE	X			
23. SPECIAL SKILLS		X		
24. HABITS		X		
25. ADAPTABILITY		X		
26. ATTITUDE	X			
27. RESPECT FOR OTHERS VIEWPOINTS	X			
28. CARE IN DOING WORK	X			
29. ACCEPTANCE OF CRITICISM	X			
30. GOALS	X			
31. SPECIFIC ACHIEVEMENTS	X			
32. READING COMPREHENSION		X		
33. RETENTION OF INSTRUCTION		X		
34. SINCERITY OF PURPOSE	X			

RECEIVED

APR 9 1973

RECORDS DEPARTMENT

PARAGRAPH SUMMARY (INCLUDING ANY RECOMMENDATIONS)

Davis was the most consistent worker in this class. He appeared to be sincerely trying all the time and has continued to work here after finishing the course, on his own time. When the next vacancy occurs, I would like to recruit him to work here regularly since he seems genuinely interested in this vocation. "B"+ grade for work and achievement.

[Signature]

SCHOOL PROGRESS REPORT

Basic Skills

NAME Davis

NO. 132 345

PROGRAM INVOLVED

ENROLLMENT PERIOD: 10 - 6 1972 thru 3-30-73

GRADE LEVEL (ACADEMIC) 91(overall average) ABSENCES: ~~XXXXXXXX~~ 1 UNEXCUSED

ITEMS EVALUATED	ABOVE AVE.	AVE.	POOR	COMMENTS OR DOES APPLY
1. ACHIEVEMENT TO DATE		X		
2. EFFORT		X		
3. INITIATIVE		X		
4. COOPERATION		X		
5. ATTENDANCE		X		
6. STABILITY		X		
7. SKINTEGRITY		X		
8. MOTIVATION		X		
9. RESPONSIBILITY		X		
10. RELIABILITY		X		
11. BEHAVIOR (COURTESY TO INSTRUCTOR)		X		
12. SERIOUSNESS		X		
13. SELF-RELIANCE		X		
14. PREPARATION		X		
15. STUDY SKILLS		X		
16. CONTRIBUTION TO CLASS		X		
17. INTEREST		X		
18. PROGRESS		X		
19. ABILITY		X		
20. COMPATABILITY (WORKING WITH CLASSMATES)		X		
21. FOLLOW INSTRUCTIONS		X		
22. DESIRE TO IMPROVE		X		
23. SPECIAL SKILLS		X		
24. HABITS		X		
25. ADAPTABILITY		X		
26. ATTITUDE		X		
27. RESPECT FOR OTHERS VIEWPOINTS		X		
28. CARE IN DOING WORK		X		
29. ACCEPTANCE OF CRITICISM		X		
30. GOALS		X		
31. SPECIFIC ACHIEVEMENTS		X		
32. READING COMPREHENSION	X			
33. RETENTION OF INSTRUCTION	X			
34. SINCERITY OF PURPOSE		X		

RECEIVED

APR 16 1973

VON CLARK DAVIS INSTITUTION

RECORD DEPARTMENT

PARAGRAPH SUMMARY (INCLUDING ANY RECOMMENDATIONS)

Cooperative in class assignments. Lack of interest caused low achievement level.

C.E. Babb

C.E. Babb
Supervisor, Basic Skills

L.M. Roudebush

L.M. Roudebush
Director of Education

GEDTS Form 30
Revised May, 1972Official Report of Test Results
TESTS OF GENERAL EDUCATIONAL DEVELOPMENT

132-345

(Civilian restricted forms only, Forms C, D, E, F, G, H, J, K, L, CC, DD, EE, FF, GG, AA)

issued by
OFFICIAL GED CENTERS
of the
General Educational Development Testing Service, American Council on Education

NAME OF EXAMINEE:

Davis,

Von

Clark

LAST

FIRST

MIDDLE

MAIDEN

ADDRESS:

Box 69
LONDON, OHIO
43140

REPORTED TO:

State Dept. of Education
751 N orthwest Blvd.
Columbus, Ohio 43212

DATE OF BIRTH

LAST GRADE
COMPLETED

8

DATE REPORTED 6-27-73

Social Security Number

Test 1: Correctness and Effectiveness of Expression

Test 2: Interpretation of Reading Materials in the Social
StudiesTest 3: Interpretation of Reading Materials in the Natural
Sciences

Test 4: Interpretation of Literary Materials

Test 5: General Mathematical Ability

Test Date	Form	Standard Score	Percentile Rank for U. S.
6-25-73	GG	48	43
6-25-73	GG	44	27
6-25-73	GG	58	78
6-26-73	GG	50	50
6-26-73	GG	47	36

Average Standard
Score:

49.4

Passed* ☒ X
Failed* ☐

RECEIVED

JUL 18 1973

UNIVERSITY OF OHIO INSTITUTION
RECORD DEPARTMENT(See other side for recommendations for uses
of GED test results.)

SIGNATURE OF CHIEF EXAMINER:

Rex Zent

NAME OF CENTER: Dept. Rehabilitation and Correction

ADDRESS OF CENTER: Box 5500, Chillicothe, Ohio 45601

DATE: 6-27-73

DRC Records from Court

691

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6303

State Department of Education



Columbus, Ohio

STATEMENT OF HIGH SCHOOL EQUIVALENCE (This is not a high school diploma and cannot be exchanged for one)

This is to certify that

Von C. Davis

has shown evidence of general development equivalent to a liberal high school education achieved on the GENERAL EDUCATIONAL DEVELOPMENT TESTS, and is therefore entitled to this Statement of High School Equivalence.

Given at Columbus, Ohio, this 3rd day of July 19 73.

MW Essex
SUPERINTENDENT OF
PUBLIC INSTRUCTION

J. E. Brown
DIRECTOR, DIVISION OF ELEMENTARY
AND SECONDARY EDUCATION

Paul E. Kohl
STATE ADMINISTRATOR OF
GED TESTING PROGRAM

692

DRC Records from Court

LETTER OF RECOMMENDATION
FROM SCHOOL DEPARTMENT

THIS IS TO CERTIFY DAVIS 132 345 HAS
ENROLLED in/~~XXXX~~ MASONRY CLASS
SEPT. 11, 1973 19 program

Remarks:

P. E. Babb
 C.E. Babb
 Supervisor, Masonry Class

L. M. Roudabush
 L. M. Roudabush
 Director of Education

OHIO PENITENTIARY
 FOR ASSOCIATE WARDEN-TREATMENT
 SUBJECT'S PROGRAM REPORT

REMARKS: *See Remarks*

ATTENDANCE: *21* of *25*

FINAL GRADE: *100%*

TERMINATION DATE: *10/1/73*

REASON FOR RE-ENTRY/TERMINATION: *None*

Submitted by: *[Signature]*

Signature: *[Signature]*

File: *CS/73*

Classification: *100%*

Distribution: *Record Office, Assoc. Warden-1, Psych. Service*

Date: *10/1/73*

LONDON CORRECTIONAL INSTITUTION

SCHOOL DEPARTMENT

This is to certify Davis 132 345 has
 completed program Masonry Class;
 February 20, 19 74 .
 Program

Remarks: His interest was divided between Auto Mechanics (full time employee) and Masonry Class. His workmanship as a mason never developed to full potential. Projects that he completed were hurried and never had the finished appearance commonly associated with Masonry. Comprehensive and retentive abilities were excellent in theory. Few unexcused absences. Final grade average 76.

C.E. Babb
 C.E. Babb
 Supervisor, Basic Skills

L.M. Roudeshush
 L.M. Roudeshush
 Director of Education

LONDON CORRECTIONAL INSTITUTION

EDUCATION DEPARTMENT

BASIC SKILLS

This is to certify DAVIS 132 345
 has progressed through Phase III -- O.J.T.
 (on the job training) of the Basic Skills
 Program with a favorable work report from
 his supervisor.

June 23, 1974
 DATE

C.E. Babb
 C.E. Babb
 Supervisor, Basic Skills

L.M. Roudeshush
 L.M. Roudeshush
 Director of Education

DRC Records from Court

864

LONDON CORRECTIONAL INSTITUTION

FROM SCHOOL DEPARTMENT

This is to certify Davis 132 345 has
completed ~~in school~~ Basic Skills Phase II ;
March 30 19 73
Date

REMARK:

C.E. Babb
C.E. Babb
Supervisor, Basic Skills

J.M. Roudabush
Director of Education

LONDON CORRECTIONAL INSTITUTION

SCHOOL DEPARTMENT

This is to certify DAVE 132 345 has
COMPLETED ~~in school~~ BASIC SKILLS PHASES I - II - III ;
June 23, 19 74 .
Program

Remarks:

C.E. Babb
C.E. Babb
Supervisor, Basic Skills

J.M. Roudabush
Director of Education

July 3, 1974

To: Mr. Canney
From: Auto School Supervise
Subject: Davis (132-345)

Mr. Canney,

Davis (132-345) has been assigned to the Auto school since April 3, 1973. His performance in class was the most outstanding in that particular group; he was courteous and respectful to the instructor and his test scores were consistently the highest in the class. For these reasons, his request for assignment to the shop area was favorably considered and he has progressed very rapidly to a high degree of proficiency in this trade. He is currently enrolled in an outside program of correspondence Education in an effort to improve his level of educational development and his conversations evidence an increasing amount of information and confidence in his improving skills.

T.A. Cozad

T.A. Cozad

Auto School

RECEIVED

JUL 5 1974

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

LONDON CORRECTIONAL INSTITUTION

SCHOOL DEPARTMENT

This is to certify DAVIS 132 345 has

COMPLETED ~~XXXXXXX~~ BASIC SKILLS PHASES I - II - III ;
Program

June 23, 1974.

RECEIVED

Remarks:

JUL 17 1974

P. E. Babb
C.E. Babb
Supervisor, Basic Skills

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

L.M. Roudebush
L.M. Roudebush
Director of Education

DATE: June 23, 1974

DAVIS 132 345

HAS THIS DATE COMPLETED THE REQUIREMENTS OF THE
BASIC SKILLS PHASES I - II - III SCHOOL
INSTRUCTIONAL PROGRAM.

THIS MEMORANDUM IS IN LIEU OF A

Certificate of Achievement,

TO BE ISSUED AT TIME OF RELEASE OR ON JUNE
1974 GRADUATION EXERCISES, WHICH EVER OCCURS

EARLIEST.

P. E. Babb
C.E. Babb
Supervisor
Basic Skills

L.M. Roudebush
RESPECTFULLY,
L.M. Roudebush
DIRECTOR OF EDUCATION.

RECEIVED

JUL 17 1974

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

DRC Records from Court

726

JAN 20 1976

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HRS.	GRADE	PTS.
FALL QUARTER 1975					
Comp I	Eng	202	5	B	
Intro Soc	Soc	201	5	I	
Intermediate Comp	Eng	206	5	I	

ADVISOR'S COPY

URBANA COLLEGE

URBANA, OHIO

A=4 CREDIT POINTS	CR- CREDIT
B=3 CREDIT POINTS	NCR- NO CREDIT
C=2 CREDIT POINTS	I- INCOMPLETE
D=1 CREDIT POINT	W- WITHDRAWN
F=0 CREDIT POINTS	PR- PROGRESS

T Von Davis
O London, Ohio

182-3445

DRC Records from Court

718

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HRS.	GRADE	PTS.
Intro Soc	Soc	201	5	B	

ADVISOR'S COPY

URBANA COLLEGE

URBANA, OHIO

A=4 CREDIT POINTS CR- CREDIT
 B=3 CREDIT POINTS NCR- NO CREDIT
 C=2 CREDIT POINTS I- INCOMPLETE
 D=1 CREDIT POINT W- WITHDRAWN
 F=0 CREDIT POINTS PR- PROGRESS

RECEIVED

T Von Davis
 O London, Ohio 1976

RECORDS DEPARTMENT
 132 345

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HRS.	GRADE	PTS.
Summer 1976 Second Session					
Creative Writing	Eng.	207	5	C	
Survey of Am. Lit.	Eng.	210	5	B	

ADVISOR'S COPY

URBANA COLLEGE

URBANA, OHIO

A=4 CREDIT POINTS CR- CREDIT
 B=3 CREDIT POINTS NCR- NO CREDIT
 C=2 CREDIT POINTS I- INCOMPLETE
 D=1 CREDIT POINT W- WITHDRAWN
 F=0 CREDIT POINTS PR- PROGRESS

Von Davis

P. O. Box 69

London, Ohio 43140

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HRS.	GRADE	PTS.
SPRING QUARTER 1976					
Intermediate Comp	Eng	206	5	B	
RECEIVED JUN 23 1976 LONDON CORRECTIONAL INSTITUTION RECORD DEPARTMENT					

ADVISOR'S COPY

URBANA COLLEGE

URBANA, OHIO

A=4 CREDIT POINTS CR- CREDIT
 B=3 CREDIT POINTS NCR- NO CREDIT
 C=2 CREDIT POINTS I- INCOMPLETE
 D=1 CREDIT POINT W- WITHDRAWN
 F=0 CREDIT POINTS PR- PROGRESS

T
O

Von Davis
 London, Ohio

132345

TERM	ATT	PASS	UNGR	QP	QPA	GRAD
78	WI	15	15	0	50	3.33 15
CUMULATIVE		70	70	19	6	3.09 89
T.	COURSE NO.	DESCRIPTION			GRADE	CREDIT HR.
st.	210	Prin. of Mat. I			B	5
y.	201	Gen. Psych.			B	5
	202	Am. His. Civ. War to Present			A	5

STUDENT
GRADE REPORT
URBANA
COLLEGE

Urbana, Ohio 43078

MAR 29 1978 KEY TO GRADING

"A" EXCELLENT
 "B" GOOD
 "C" AVERAGE
 "D" POOR
 "F" FAILURE
 "CR" CREDIT
 "NC" NO CREDIT
 "P" PASS
 "I" INCOMPLETE
 "AU" AUDIT

KEY TO TERM

FA - FALL WI - WINTER SP - SPRING
 SU - SUMMER

CLASS SO Von Clark Davis
 NAME Box 69
 London, Ohio 43140

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HRS.	GRADE	PTS.
GENERAL SURVEY 1976					
Man & His environment	Bio	227	5	C	

RECEIVED
OCT 15 1976
LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

ADVISOR'S COPY

URBANA COLLEGE

URBANA, OHIO

A=4 CREDIT POINTS CR- CREDIT
 B=3 CREDIT POINTS NCR- NO CREDIT
 C=2 CREDIT POINTS I- INCOMPLETE
 D=1 CREDIT POINT W- WITHDRAWN
 F=0 CREDIT POINTS PR- PROGRESS

132-345
 T O Von Clark Davis
 Box 69
 London, Ohio 43140

TERM	ATT	PASS	UNGR	QP	QPA	GRAD
FA	12.5	12.5	0	46	3.68	12.5
CUMULATIVE	55	55	0	166	3.02	55
COURSE NO.	DESCRIPTION			GRADE	CREDIT HR.	
206	Child Growth&Develop.			C	3	
291-C	Death as a Social Iss.			A	5	
290	Practical Logic			A	2.5	
290-A	Motion&Simple Mach.			A	2.5	

STUDENT
GRADE REPORT

**URBANA
COLLEGE**

Urbana, Ohio 43078

KEY TO GRADING

"A" EXCELLENT "CR" CREDIT
 "B" GOOD "NC" NO CREDIT
 "C" AVERAGE "P" PASS
 "D" POOR "I" INCOMPLETE
 "F" FAILURE "AU" AUDIT

KEY TO TERM

FA - FALL WI - WINTER SP - SPRING
 SU - SUMMER

RECEIVED

DEC 21 1977

LONDON CORRECTIONAL INSTITUTION
RECORD DEPARTMENT

ADVISOR'S COPY

DRC Records from Court

715

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6313

132-345

DATE	TERM	ATT	PASS	UNGR	QP	QPA	GRAD
9/6/77	SU	12.5	12.5	0	40	3.20	12.5
		42.5	42.5	0	120	2.82	42.5
DEPT	COURSE NO.	DESCRIPTION	GRADE	CREDIT HR			
MUS	205	Mus in the Humanities	B	5			
SCI	290B	Basic Elec & Magnetism	B	2.5			
SOC	490F	Conformity	B	2.5			
ENG	290Q	Lit Forms/Bibliography	A	2.5			

CLASS 50
 NAME Von C. Davis
 P.O. Box 69
 London, Ohio 43140

STUDENT
 GRADE REPORT
RECEIVED
URBANA
COLLEGE

SEP 29 1977
 Urbana, Ohio 43078

LONDON CORRECTIONAL INSTITUTION
 RECORD DEPARTMENT

AT EXCELLENT
 VERY GOOD
 GOOD
 AVERAGE
 POOR
 FAILURE
 KEY TO TERM
 A 100% B 90% C 80% D 70% E 60% F 50% G 40% H 30% I 20% J 10% K 0%

STUDENT'S COPY

COMMITTEE DECISION

CLASSIFICATION ☐RE-CLASSIFICATION ☐

NAME Davis

NO. 132-345

Referral Source annual review

Grade Level

TESTED

Present Assignment Dental clinic

Job Preferences: 1.

2.

3.

Inmate Comment: completed Bldg. Maint. OED in College

Program Outlined by Committee: satisfied w/job may seek
 honor placement later wants to learn denture making

30 Day Progress Report Memo to:

Work report average

RECEIVED

AUG 31 1977

Provisional Assignment Confirmed

LONDON CORRECTIONAL INSTITUT
 RECORD DEPARTMENT

New Assignment no change

Board Date Jan 81 P.H.

Date August 30, 1977

WHITE - PERSONNEL OFFICE
 BLUE - RECORD OFFICE
 PINK - DEPUTYS OFFICE
 CANARY - SOCIAL SERVICES

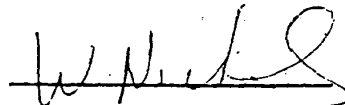
Secretary

DRC Records from Court 714

To: T. D. Taylor, Assoc. Supt.
 From : Walter Nichols, Director of Education
 Subj: Urbana College, Associate of Arts degrees

The following men received Associate of Arts (A A) degrees from Urbana College on June 15, 1978.

124-990 Postea La s key	138-150 Dion Daniels
132-345 Von Davis	140-515 Charles Williams
132-353 Paul Riley	141-072 William Hill
133-058 Robert Cameron	141-224 Phillip Roberts
133-597 Clifford Evans	141-372 Dwight Edwards
133-608 Gus Hamilton	143-145 Jack Abrams
133-945 Jimmy Howard	143-288 Steven Coston
134-282 Melvin Fisher	143-809 Robert Jones (<i>Fields</i>)
135-853 Joe Daniels	144-108 Eddie Stewart
136-099 Virgil Lumpkin	145-647 Wayne Curtis
136-667 Wendell Drake	146-835 James Latham
137-501 Ross Duffey	139-960 Paul Hudson



Walter B. Nichols

Dir. of Education Dept.

RECEIVED

JUN 22 1978

LONDON CORRECTIONAL INSTITUTION

DRC Records from Court

711

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6315

DATE	TERM	ATT	PASS	UNGR	QP	QPA	GRAD
5/30/78	8P	15	15	0	55	3.67	15
	CUMULATIVE	85	85	19	271	3.19	104

DEPT.	COURSE NO.	DESCRIPTION	GRADE	CREDIT HR
hi	291	Issues in Meaning	A	5
rt	202	Drawing	B	5
st	201	Cultural Anthropology	A	5

CLASS	Von C. Davis
NAME	P.O. Box 69 London, Ohio 43140

STUDENT
GRADE REPORT

URBANA COLLEGE
Urbana, Ohio 4307

132-345

KEY TO GRADING

"A" EXCELLENT "CR" CREDIT
 "B" GOOD "NC" NO CREDIT
 "C" AVERAGE "P" PASS
 "D" POOR "I" INCOMPLETE
 "F" FAILURE "AU" AUDIT

RECEIVED

KEY TO TERM
 FA - FALL W - WINTER SP - SPRING
 SU - SUMMER

FEB 20 1978

STUDENT'S COPY LONDON CORRECTIONAL INSTITUTION
RECORDS DEPARTMENT

LONDON CORRECTIONAL INSTITUTION

INSTITUTION DEPT. TITLE PSYCHOLOGICAL SERVICES
 PROGRAM TITLE GUIDES FOR BETTER LIVING (GFBL)
 INMATE SERIAL NO 132-345 Inmate Name DAVIS
 (first) (middle) (last)
 STATUS: (Mark NA if not applicable)

Date entered on Waiting List 6-78Date entered Program 1-23-79

Date ended Program _____

By Completion _____

By Failure _____

By Withdrawal _____

By Absenteeism _____

By Transfer out of Facility _____

By Dismissal _____

Remarks GFBL IS AN EDUCATIONAL PROGRAM WITH 3 MAJOR SUBJECT AREAS:

EFFECTIVE PROBLEM-SOLVING, TECHNIQUES FOR BEHAVIOR CHANGE, TECHNIQUES
FOR MINIMIZING AND/OR REPLACING BEHAVIORS KNOWN TO BE RELATED TO
ARRESTABLE BEHAVIOR.

NAME OF TEACHER: J. A. JONES

REFERRAL SOURCE _____

Offender Information
TYPE: <u>INITIAL</u>
PROGRESS, FINAL
(Circle One)

FEB 7 1979

LONDON CORRECTIONAL INSTITUTION
RECORDS DEPARTMENT

DRC Records from Court

724

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6316

Name DAVIS VON C. Social Security Account Number _____
 (last) (first) (initial) Code _____

Address 132-345 Zip Code _____

GENERAL APTITUDE TEST BATTERY (GATB) DATA

Date	Sex	Age	Group	Education	Experience	S-	S-	S-
1-25-80	M							

B-1002 ☐ B-1001 ☐ COMMENTS _____

1001	1002	Raw Score	G	V	N	S	P	Q	K	F	M
B	1	37						97			
D	2	27			88						
H	3	13	13			91					
J	4	20	58	100							
A	5	22					39				
I	6	10	24		18						
L	7	24					54				
K	8	70						101			
M	9	92								27	
N	10	110								84	
O	11	29							42		
P	12	33							67		
APTITUDE SCORES			95	100	106	91	93	47	101	109	111
STANDARD ERROR of MEASUREMENT			6	6	6	8	9	9	7	12	11
APTITUDE SCORES plus STANDARD ERROR of MEASUREMENT			101	106	112	99	102	106	108	121	122

OCCUPATIONAL APTITUDE PATTERN (OAP) NUMBERS

All H's	23	46
12	35	58
1	24	47
13	36	59
2	25	48
14	37	60
3	26	49
15	38	61
4	27	50
16	39	62
5	28	51
17	40	
6	29	52
18	41	
7	30	53
19	42	
8	31	54
20	43	
9	32	55
21	44	
10	33	56
22	45	
11	34	57

CROSS OUT FOR GRADE L
 CIRCLE IN BLACK FOR GRADE M
 CIRCLE IN RED FOR GRADE H

RECEIVED
 ASSOCIATE SUPERINTENDENT

CONCERN:

on willing to waiver my
 is and or the arresting
 rules infraction board.

Signed:

Witness:

Date:

Davis 132345
Capit Dwyer
13-31-80

RECEIVED

APR 8 1980

LONDON CORRECTIONAL INSTITUTION
 RECORD DEPARTMENT

DRC Records from Court

590

VON CLARK DAVIS v. WARDEN
 CASE NO. 2:16-cv-00495
 APPENDIX - Page 6317

UNIT QUESTIONNAIRE
FOR EDUCATIONAL SERVICES

NAME: Davis

NUMBER: 179-828

PREVIOUS EDUCATION

LAST GRADE LEVEL ATTENDED: 3 yrs College

G.E.D.: YES ☒ NO ☐

COLLEGE: YES ☒ NO ☐

VOCATIONAL
TRADE YES ☒ NO ☐

IF YES TO VOCATIONAL TRADE THEN EXPLAIN:

Auto body Repair

PREVIOUS INSTITUTIONAL EDUCATION:

A.B.E.: YES ☐ NO ☐

G.E.D.: YES ☒ NO ☐

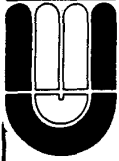
HIGH
SCHOOL: YES ☐ NO ☐

COLLEGE: YES ☒ NO ☐

INDIVIDUAL REQUEST

Von C. Davis
SIGNATURE

7/29/91
DATE



**URBANA
UNIVERSITY**

Urbana, OH 43078
(513) 652-1301

Mr. Steve Cheney
Mitigation Specialist
Office of the Ohio Public Defenders
8 East Long Street
Columbus, Ohio 43266-0587

May 24, 1993

Dear Mr. Chaney,

Enclosed please find documents relating to the enrollment of
Von Clark Davis with Urbana University.

Mr. Clark was enrolled with Urbana University from September 1975
through receipt of his Associate of Arts degree in June 1978.
Mr. Clark's academic advisor during that time was Mr. LeRoy Roudebush
who passed away a few years ago. No additional files on incarcerated
students would be kept beyond graduation.

In 1981, Mr. Davis returned to our Cincinnati location. At that time
his advisor would have been Mr. Herbert Holinko. The University has
not had a Cincinnati location for nearly ten years; so, I cannot give
you information regarding Mr. Holinko's current address.

I trust that Mr. Davis's academic transcript can provide sufficient
information regarding academic performance, courses completed etc.
Official academic records do not reflect co-curricular activities nor
non-academic sanctions.

All enclosed documents have been certified with the University seal
and Registrar signature. Information in Mr. Davis's file is limited;
however, I trust what we have sent will be helpful.

Sincerely,

A. Kathleen Yoder
Registrar

AKY/ss

URBANA COLLEGE
APPLICATION FOR DEGREE

TODAY'S DATE 4/11/78

NAME(as desired on diploma) VON CLARK DAVIS

Present Address Post Office Box 69, London Ohio 43140 Phone No. _____
Street City/State/Zip

Home Address [REDACTED] Springdale, Ohio 45246 Phone No. _____
Street City/State/Zip

Marital Status Single Spouse's Name _____

Parent's Name Charles & Allustee Tipton

Address [REDACTED] Springdale, Ohio 45246
Street City/State/Zip

Date of Graduation June, 1978 Date of Birth [REDACTED]

Major _____ Social Security No. _____

Minor _____ Academic Advisor _____

Degree Desired: B.S. _____ Catalog under which you will graduate:

A.A. X B.A. _____ 1977-8

Those students who plan to apply for Teacher Certification in a given area
should complete the following information:

PROVISIONAL ELEMENTARY ()

PROVISIONAL SECONDARY ()

Area of Concentration:

Areas for which you wish to be Certified:

APR 2 1978
Kathleen Jones

VON CLARK DAVIS H.H.

RECOMMENDATION FOR GRADUATION

After reviewing the records of Von Clark Davis
Student's Name

I find that he/she has completed the requirements as indicated below.

(Please complete those which are applicable)

1. A major in Liberal Studies with 104 hours.
2. A minor in _____ with _____ hours.
- *3. Certification in Elementary Education with an Area of Concentration in _____.
- *4. Secondary Certification in _____.

Therefore, I would like to recommend this student for graduation effective

4-18-78
Date

[Signature]
Advisor's Signature

*Items 3 and 4 must be approved by the Director of Teacher Education.

Director of Teacher Education

Date

APPROVED BY:

[Signature]
Dean of the College

5/18/78
Date

[Signature]
Registrar

5-15-78
Date

FINAL APPROVAL BY THE BOARD OF TRUSTEES: _____

Date

OFFICE OF THE REGISTRAR **URBANA COLLEGE** 268-46-9205
Urbana, Ohio

Davis, Von Clark 132-345

Name
P.O. Box 69, London, Ohio 43140

Address

Parent or Guardian

Address

HIGH SCHOOL AND YEAR OF GRADUATION:

2

ENTRANCE CREDITS Units

ENGLISH:

FOREIGN LANGUAGE:

Latin
French
German
Spanish

SCIENCE:

General Science
Chemistry
Physics
Biology, Bot., Zool.
Physiology

MATHEMATICS:

Algebra I
Algebra beyond Quad.
Plane Geometry
Solid Geometry
Trigonometry

HISTORY:

Ancient
Medieval
Modern
American
English
World

SOCIAL:

Civics
Sociology

OTHER:

FALL QUARTER 1975

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HOURS	GRADE	PTS.
Comp I	Eng	202	5	B	
Intro Soc	Soc	201	5	B	
Intermediate Comp	Eng	206	5	B	

SUMMER 1976 - Second Session

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HOURS	GRADE	PTS.
Creative Writing	Eng.	207	5	C	
Survey of Am. Lit.	Eng.	210	5	B	

SUMMER SESSION 1976

TITLE OF COURSE	DEPT.	COURSE NO.	CR. HOURS	GRADE	PTS.
Man & His environment Bio	Bio	227	5	C	

DATE	TERM	ATT	PASS	UNGR	QP	QPA	GRAD
9/6/77	SU	12.5	12.5	0	40	3.20	12.5
	CUMULATIVE	42.5	42.5	0	120	2.82	42.5

DEPT.	COURSE NO.	DESCRIPTION	GRADE	CREDIT HR.
MUS	205	Mus in the Humanities	B	5
SCI	290B	Basic Elec & Magnetism	B	2.5
SOC	490F	Conformity	B	2.5
ENG	290Q	Lit Forms/Biography	A	2.5

CLASS SO
Von C. Davis
NAME
P.O. Box 69
London, Ohio 43140

Date of Birth

ENTERED 7-25-75

AWARDS:

Associates of Arts
June 1978

LEFT

Title of Course		Department	Course No	Cr. Hrs.	Grade		
DATE	TERM	ATT	PASS	UNGR	QP	QPA	GRAD
12-16-77	FA	12.5	12.5	0	46	3.68	12.5
	CUMULATIVE	55	55	0	166	3.02	55

DEPT.	COURSE NO.	DESCRIPTION	GRADE	CREDIT HR.
PSY	206	Child Growth&Develop.	C	3
SOC	291-C	Death as a Social Iss.	A	5
PHI	290	Practical Logic	A	2.5
SCI	290-A	Motion&Simple Mach.	A	2.5

CLASS SO Von C. Davis
NAME P.O. BOX 69
London, Ohio 43140

OHIO UNIVERSITY			
Eng.181	Cont. Writing Skills		5.0
Phi.301	Introduction		3.0
Bus.255	Law & Society		4.0
Hper 202c	Personal & Comm Health		4.0
Hper 227c	First Aid		3.0
TOTAL:			19.0

This information is being released in accordance with the Family Educational Rights and Privacy Act of 1974. Under provisions of this Act you are not to release this information without written consent of the student.

Date MAY 26 1999

Registrar

A. Kathleen Yoder

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6324

School Record - TRANSCRIPT

Ohio Central School System

315 Phillipi Road

Columbus, Ohio 43228

Student ID #: 179-828

Name (Last, (maiden), First, Middle): DAVIS, VON	Date of Birth: [REDACTED]	Social Security Number: [REDACTED]
Home Address (Street, Apt, City, State, Zip): [REDACTED] Cincinnati OH 45240		
GED/HS Grad. Location (Name, City, State):		Date Received:

Academic Achievement Assessment Record

Site	Date	Form	Level	Reading	Mathematics	Language	Total
SOCC	7/24/85	1	m	8.3	9.6	.1	.1

Pre-GED Testing Record

Date	Writing Skills	Social Stud.	Science	Int. Lit & Arts	Mathematics	Average	P/F

GED Testing Record

Date	Writing Skills	Social Stud.	Science	Int. Lit & Arts	Mathematics	Average	P/F

Ninth Grade Proficient Testing Record

	Site	Writing	Reading	Science	Mathematics	Citizenship
Date Passed						

Vocational Achievement Assessment Record

Site	Date	Instrument				

DRC 4138 (Rev 3/98)

DRC Records from Court

536

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6325

Academic School Enrollment Record

Program	Site	Date-In	Date-Out	Reason	Cert.
Urban Csl					

Vocational Education Enrollment Record

Program	Site	Date-In	Date-Out	Reason	ICP	CP	Cert.

Apprenticeship

DOT Code	DOT Number	Year Registered	Program Title	Supervisor	Hours	Cert. Date 50% Comp

Tutor Training

Program Type	Site	Hours	Date of Certificate

Pre-Release Training

Site:	Date:
-------	-------

Public Law 93-380, Family Education Rights and Privacy Act of 1974, as amended, allows an individual to grant permission to schools to release transcripts for the purpose of enrolling in other educational programs, and/or to potential employers that may request transcripts.

In accordance with the above, I hereby grant permission to the Ohio Central School System, as chartered, and/or it's affiliated colleges and universities, to release this transcript to State agencies, other schools or educational programs, and to potential employers that request this information.

I also hereby authorize the Department of Rehabilitation and Correction, and the Ohio Central School System, not to expunge my official school transcript.

Student Signature:	Date:
Signature and Title of Ohio Central School System Official:	Date:

Equal education opportunities are offered without regard to race, color, national origin, or disability.



COPY OF YOUR DD214 REQUIRED WITH APPLICATION

APPLICATION FOR MEMBERSHIP

NAME VON CLARK DAVIS #179-828 BIRTHDATE [REDACTED]
 STREET SOUTHERN OHIO CORRECTIONAL FACILITY SOCIAL SECURITY # [REDACTED]
P.O. BOX P.O. BOX 45699
 CITY LUCASVILLE, OHIO STATE [REDACTED] YEAR ENTERED SERVICE 1964
 ZIP 45699 PHONE # [REDACTED] YEAR DISCHARGED 1965
 NAME OF SPOUSE N/A BRANCH OF SERVICE U.S. NAVY
 ARE YOU: A SMALL BUSINESSMAN ☐ EMPLOYED ☐ UNEMPLOYED ☐ INCARCERATED ☒ [x]
 I APPLY FOR MEMBERSHIP IN THE VIETNAM VETERANS OF AMERICA, AND PRESENT
 \$ N/A FOR 1991 DUES NEW MEMBER ☒ RENEWAL ☐ ASSOCIATE ☐
 SIGNATURE Von Clark Davis DATE Nov. 22, 1989
 AUTHORIZING OFFICER Charles Traylor CHAPTER VVA #181
 Vice President/Secretary #181



TEMPORARY MEMBERSHIP CARD

DATE [REDACTED]
 CHAPTER [REDACTED]
 STATE [REDACTED]

RECEIVED FROM
 APPLICANT
 BELOW \$
 PAYMENT FOR DUES
 IN THE V.V.A.
 FOR THE YEAR OF [REDACTED]

APPLICANT [REDACTED]

SIGNATURE OF
 PERSON RECEIVING
 APPLICANT'S DUES [REDACTED]



INSTRUCTIONS

1. **Information needed to locate records.** Certain identifying information is necessary to determine the location of an individual's record of military service. Please give careful consideration to and answer each item on this form. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available." Include as much of the requested information as you can. This will help us to give you the best possible service.

2. **Charges for service.** A nominal fee is charged for certain types of service. In most instances service fees cannot be determined in advance. If your request involves a service fee you will be notified as soon as that determination is made.

3. **Restrictions on release of information.** Information from records of military personnel is released subject to restrictions imposed by the military departments consistent with the provisions of the Freedom of Information Act of 1967 (as amended 1974) and the Privacy Act of 1974. A service person has access to almost any information contained in his own record. The next of kin (see item 4 of instructions) if the veteran is deceased and Federal officers for official purposes are authorized to receive information from a military service or medical record only as specified in the above cited Acts. Other requesters must have the release authorization, in item 5 of the form, signed by the

veteran or, if deceased, by the next of kin. Employers and others needing proof of military services are expected to accept the information shown on documents issued by the Armed Forces at the time a service person is separated.

4. **Precedence of next of kin.** The order of precedence of the next of kin is: unmarried widow or widower, eldest son or daughter, father or mother, eldest brother or sister.

5. **Location of military personnel records.** The various categories of military personnel records are described in the chart below. For each category there is a code number which indicates the address at the bottom of the page to which this request should be sent. For each military service there is a note explaining approximately how long the records are held by the military service before they are transferred to the National Personnel Records Center, St. Louis. Please read these notes carefully and make sure you send your inquiry to the right address. (If the person has two or more periods of service within the same branch, send your request to the office having the record for the last period of service.)

6. **Definitions for abbreviations used below:**

NPRC—National Personnel Records Center PERS—Personnel Records
TDRL—Temporary Disability Retirement List MED—Medical Records

SERVICE	NOTE	CATEGORY OF RECORDS	WHERE TO WRITE ADDRESS CODE	
AIR FORCE (USAF)	Air Force records are transferred to NPRC from Code 1, 90 days after separation and from Code 2, 30 days after separation.	Active members (includes National Guard on active duty in the Air Force), TDRL, and general officers retired with pay.		1
		Reserve, retired reservist in nonpay status, current National Guard officers not on active duty in Air Force, and National Guard released from active duty in Air Force.		2
		Current National Guard enlisted not on active duty in Air Force.		13
		Discharged, deceased, and retired with pay (except general officers retired with pay).		14
				3
COAST GUARD (USCG)	Coast Guard officer and enlisted records are transferred to NPRC 3-6 months after separation	Active, reserve, and TDRL members.		14
		Discharged, deceased, and retired members (see next item).		6
		Officers separated before 1/1/29 and enlisted personnel separated before 1/1/15.		4
MARINE CORPS (USMC)	Marine Corps records are transferred to NPRC 4 months after separation	Active and TDRL members, reserve officers, and Class II enlisted reserve.		5
		Class III reservists and Fleet Marine Corps Reserve members.		14
		Discharged, deceased, and retired members (see next item).		6
		Officers and enlisted personnel separated before 1/1/1896.		7
		Reserve, living retired members, retired general officers, and active duty records of current National Guard members who performed service in the U.S. Army before 7/1/72.*		8
ARMY (USA)	Army records are transferred to NPRC as soon as processed (about 30 days after separation)	Active officers (including National Guard on active duty in the U.S. Army).		9
		Active enlisted (including National Guard on active duty in the U.S. Army) and enlisted TDRL.		12
		Current National Guard officers not on active duty in the U.S. Army.		13
		Current National Guard enlisted not on active duty in the U.S. Army.		14
		Discharged and deceased members (see next item).		6
		Officers separated before 7/1/17 and enlisted separated before 11/1/12.		8
		Officers and warrant officers TDRL.		10
		Active members (including reservists on active duty)—PERS and MED		10
NAVY (USN)	Navy records are transferred to NPRC 6 months after retirement or complete separation.	Discharged, deceased, retired (with and without pay) less than six months, TDRL, drilling and nondrilling reservists	PERS only MED only	11
		Discharged, deceased, retired (with and without pay) more than six months (see next item)—PERS & MED		14
		Officers separated before 1/1/03 and enlisted separated before 1/1/1886—PERS and MED		6

* Code 12 applies to active duty records of current National Guard officers who performed service in the U.S. Army after 6/30/72.
Code 13 applies to active duty records of current National Guard enlisted members who performed service in the U.S. Army after 6/30/72.

ADDRESS LIST OF CUSTODIANS (BY CODE NUMBERS SHOWN ABOVE)—Where to write / send this form for each category of records

1	USAF Military Personnel Center Military Personnel Records Division Randolph AFB, TX 78148	5	Marine Corps Reserve Forces Administration Center 1500 E. Bannister Road Kansas City, MO 64131	8	USA MILPERCEN Attn: DAPC-PSR-R 200 Stovall Street Alexandria, VA 22332	12	Army National Guard Personnel Center Columbia Pike Office Building 5600 Columbia Pike Boulevard Falls Church, VA 22041
2	Air Reserve Personnel Center 7300 East 1st Avenue Denver, CO 80280	6	Military Archives Division National Archives & Records Service General Services Administration Washington, DC 20408	9	Commander U.S. Army Enlisted Records and Evaluation Center Ft. Benjamin Harrison, IN 46249	13	The Adjutant General (of the appropriate State, DC, or Puerto Rico)
3	Commandant U.S. Coast Guard Washington, DC 20590						
4	Commandant of the Marine Corps Headquarters, U.S. Marine Corps Washington, DC 20380	7	Commander U.S. Army Reserve Components Personnel & Administration Center 9700 Page Boulevard St. Louis, MO 63132	10	Chief of Naval Personnel Department of the Navy Washington, DC 20370	14	National Personnel Center (Military Personnel)
				11	Naval Reserve Personnel Center New Orleans, LA 70146		

DRC Records from Court

573

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6328

23-89

-----FOLD along the dotted line-----

INSTITUTION "KITE"
FORM C-100

10-16-89
Date

mail & visiting Dept.
TO: INSTITUTION V.A. Representative

FROM: Von Davis 179828
Name Number

K 4-26 D.R.C.
Cell Job Assignment

Kites may be sent to a person by name, if desired, or to a Department for general request(s)
PLEASE BRIEFLY STATE YOUR REQUEST and REASON on the reverse side of this "Kite".

-----FOLD along the dotted line-----

WARDEN
DEPUTY WARDEN OF PROGRAMS
DEPUTY WARDEN OF T.I.E.
DEPUTY WARDEN OF OPERATIONS
CASHIER'S OFFICE
INMATE CLOTHING ISSUE
COMMISSARY
EDUCATIONAL DEPARTMENT
INMATE PERSONNEL DEPARTMENT
INFIRMARY
LEGAL SERVICES
SHIFT CAPTAIN
SOCIAL SERVICES DEPARTMENT
RECREATION DEPARTMENT
LIBRARY

ADMINISTRATIVE ASSISTANT
INSTITUTION INSPECTOR/GRIEVANCES
INSTITUTION INSPECTOR/SAFETY
PLANT MAINTENANCE SUPERINTENDENT
MAIL & VISITING DEPARTMENT
INMATE PROPERTY ROOM
PSYCHOLOGICAL SERVICES
RELIGIOUS SERVICES (CHAPEL)
UNIT MANAGER ONE L-1/L-2
UNIT MANAGER TWO L-3/L-4
UNIT MANAGER THREE L-5/L-6
UNIT MANAGER FOUR L-7/L-8
UNIT MANAGER FIVE K-5/K-6
UNIT MANAGER SIX K-7/K-8

DRC Records from Court

574

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6329

DATE: 10-16-89VIETNAM VETERANS OF AMERICA
CHAPTER #181

RE: PRE-INTERVIEW QUESTIONNAIRE APPLICATION FOR MEMBERSHIP

NAME: VON CLARK DAVIS # 179-828 K4-76
(FULL NAME) (NUMBER) (LOCK)BRANCH OF SERVICE: U.S. NAVY SERVICE NUMBER: [REDACTED]SOCIAL SECURITY NUMBER: _____ DATE OF BIRTH: [REDACTED]DATES OF SERVICE: Hamilton OhioFROM: MONTH _____ YEAR 1964TO: MONTH _____ YEAR 1965TYPE OF DISCHARGE: General, under Honorable Conditions (Honorable on Discharge)

TOUR OF DUTY: STATE SIDE: _____

OVERSEAS TOUR OF DUTY: Sixth Fleet - mediterranean

DO YOU WANT TO FILE:

FOR V.A. BENEFITS IF ENTITLED? YES ☒ NO _____

EDUCATIONAL:

A.B.E. _____

SECONDARY _____

CONTINUING EDUCATION _____

VOCATIONAL EDUCATION _____

DISCHARGE UPGRADE? YES _____ NO _____

AGENT ORANGE CLAIM? YES _____ NO _____

PTSD CLAIM? YES _____ NO _____

IF YOU WANT TO FILE FOR OTHER BENEFITS STATE WHAT TYPE: Support for children

HAVE YOU PREVIOUSLY RECEIVED AN EDUCATIONAL ALLOWANCE THROUGH THE V.A. ?

YES ☒ NO _____ IF SO, HOW MANY MONTHS not sure

* NOTE: THIS FORM IS FOR USE ONLY BY V.V.A. REPRESENTATIVES TO DETERMINE WHAT SERVICES MAY BE

DRC Records from Court

575

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6330

**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO,	:	Case No. CR-1983-12-0614
	:	
Plaintiff-Respondent,	:	Judge Nastoff, Presiding
	:	
v.	:	
	:	
VON CLARK DAVIS,	:	CAPITAL CASE
	:	
Defendant-Petitioner.	:	

AFFIDAVIT OF CYNTHIA MAUSSER

COUNTY OF FRANKLIN)
) SS:
STATE OF OHIO)

I, Cynthia Mausser, being first duly cautioned do state the following:


1. I am over 18 years of age, am of sound mind, and am competent to testify regarding the matters discussed in this affidavit.
2. I was appointed as Chair of the Ohio Parole Board in October 2005 and remain in that position today. From 2001 to 2005, I was a member of the Ohio Parole Board.
3. In 2009, I was contacted by Randall Porter and Melynda Cook-Reich, defense counsel for Von Clark Davis. I was asked to and did appear and testify at the September, 2009 penalty phase hearing. I have reviewed my testimony as well as several other portions of that hearing provided by Mr. Davis's current counsel.
4. I read at page 38 of Volume I of the transcript during defense counsel's opening statement that I would testify that Mr. Davis would never be paroled. I never told defense counsel that Mr. Davis would never be paroled.
5. I also read at pages 132-140 of Volume II the discussion about whether I could testify. The prosecution is correct that I did not tell defense counsel that Mr. Davis would never be paroled as defense counsel suggested on pages 137 and 140.
6. I cannot predict what I would do if Mr. Davis's case came before me nor could I predict what other Parole Board members would do.

EXHIBIT

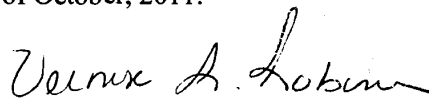
F

7. Defense counsel did not provide me Mr. Davis's entire file which would be necessary for me to give any opinion on whether I would likely vote to parole Mr. Davis at any upcoming parole hearing.
8. At the end of my testimony, I started to say something (Vol. II, p. 189) but was not permitted to finish. If permitted, I would have corrected my answer at page 171 where I said I had not sat on a case to vote on parole where a person was convicted of a death penalty specification but the individual received a sentence of less than death. The question was confusing. I actually have sat on cases where a person came before the Parole Board for a parole hearing having been convicted of a death penalty specification but receiving a life sentence. If defense counsel had asked me what I was seeking to clarify at page 189 of the transcript, I would have corrected my previous answer.

FURTHER AFFIANT SAYETH NAUGHT.


Cynthia Mausser

Sworn to and subscribed before me this 19th day of October, 2011.


Notary Public



Vernise L. Robinson
Notary Public
State of Ohio
My Commission Expires
February 10, 2012

FILED
2009 SEP 21 PM 4:07

CLERK OF COURT
BUTLER COUNTY
OHIO

**COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO,

Plaintiff,

vs.

VON CLARK DAVIS,

Defendant.

* **Case Number: CR1983 12 0614**
*
* **Judge Andrew Nastoff, Presiding**
* **Judge Charles Pater**
* **Judge Keith M. Spaeth**
*
* **SENTENCING OPINION**
*
*

The Court issues this sentencing opinion pursuant to R.C. 2929.03(F).

On January 6, 1984, the Butler County Grand Jury returned a two count indictment against Defendant. Count One of the indictment charged Defendant with aggravated murder in violation of R.C. 2903.01(A) with two specifications. Specification One charged that prior to the offense at bar, Defendant was convicted of murder in the second degree, in violation of R.C. 2901.05 on April 20, 1971, an essential element of which was the purposeful killing of another as specified in R.C. 2929.04(A)(5). Specification Two charged that Defendant had a firearm on or about his person or under his control while committing the offense set forth in Count One, as specified in R.C. 2929.71. Count Two charged Defendant with having weapons under disability in violation of R.C. 2923.13(A)(2).

Defendant pled not guilty to all of the charges and specifications. Defendant waived his right to a jury trial and requested that the matter be tried to a three-judge panel.

Beginning May 4, 1984, Defendant was tried by a three-judge panel that found

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

1

EXHIBIT

G

Defendant guilty of all charges and specifications. On May 29, 1984, the trial's sentencing phase commenced. At the conclusion of the sentencing phase, the three-judge panel held that the aggravating circumstance outweighed the mitigating factors beyond a reasonable doubt and sentenced Defendant to death.

On September 14, 1988, the Ohio Supreme Court held that the three-judge panel erred by considering and weighing non-statutory aggravating circumstances against mitigating factors when it imposed Defendant's death sentence. The Ohio Supreme Court affirmed Defendant's convictions, but reversed his sentence and remanded the case to the trial court for resentencing.

On remand, Defendant sought to introduce additional mitigation evidence in the form of testimony from prison personnel employed at the Southern Ohio Correctional Facility in Lucasville, Ohio. Defendant argued that the testimony was relevant because it showed good behavior while on death row. The reconstituted three-judge panel did not permit Defendant to offer additional mitigation evidence. Instead, the panel simply reconsidered the evidence presented at the original sentencing phase. Once again, the panel found that the sole aggravating circumstance outweighed the mitigating factors beyond a reasonable doubt and imposed the death penalty.

Both the Twelfth District Court of Appeals and Ohio Supreme Court affirmed Defendant's death sentence. Defendant then petitioned the United States District Court for the Southern District of Ohio for a writ of habeas corpus. The District Court denied

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

Defendant's petition. On appeal, the United States Court of Appeals for the Sixth Circuit reversed Defendant's death sentence, holding that the trial court erred at resentencing when it barred Defendant from presenting new mitigation evidence concerning his good behavior while on death row. On January 29, 2007, the Sixth Circuit remanded the matter to the District Court. On July 19, 2007, the District Court granted Defendant's writ of habeas corpus conditioned upon the State of Ohio granting Defendant a new sentencing hearing.

On remand, this Court assumed jurisdiction over the instant case. On December 19, 2007, to comply with the mandate handed down from the federal courts, this Court granted Defendant a new sentencing hearing. Because the original three-judge panel could not reconstitute, the undersigned three-judge panel was formed pursuant to R.C. 2929.06 and Ohio Rule of Criminal Procedure 25(B).

Pursuant to R.C. 2929.03 and R.C. 2929.04, the undersigned three-judge panel presided over Defendant's resentencing hearing from September 8, 2009 through September 10, 2009 to determine whether the single aggravating circumstance in this case outweighed the mitigating factors beyond a reasonable doubt.

AGGRAVATING CIRCUMSTANCE

In this case, the aggravating circumstance that is to be weighed against the mitigating factors is as follows: that prior to the offense at bar, the offender was convicted of an offense an essential element of which was the purposeful killing of another. R.C. 2929.04(A)(5).

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

The State of Ohio re-introduced the journal entry of conviction filed in Butler County Common Pleas Case Number 21655 reflecting Defendant's 1971 conviction for second degree murder in violation of R.C. 2901.05. The State further offered portions of the 1984 trial transcript to show then-defense counsel's stipulation to the 1971 entry of conviction, its pertinence to Defendant, and that an essential element of R.C. 2901.05 was the purposeful killing of another. The evidence established that the victim of Defendant's prior purposeful killing was his wife, Ernestine. The State submitted no other evidence. The Court accepted the aforementioned evidence to the extent that it was relevant to the aggravating circumstance committed in this case.

MITIGATING FACTORS

Mitigating factors are factors which, while they do not justify or excuse the crime, nevertheless in fairness and mercy, may be considered as they call for a penalty less than death, or lessen the appropriateness of a sentence of death. Mitigating factors are those factors about an individual that weigh in favor of a decision that a sentence of life in prison is the appropriate sentence.

As requested by Defendant and in accordance with R.C. 2929.04(B), the Court has weighed against the aggravating circumstance the nature and circumstances of the offense, the history, character, and background of the Defendant, and all of the following:

1. Any other factors that are relevant to the issue of whether the offender should be sentenced to death (R.C. 2929.04(B)(7)):

- A. Borderline personality disorder;

B. Alcohol abuse;

C. Love and support of family members and friends;

D. Testimony of Defendant's daughter, Sherry Davis, regarding her forgiveness of Defendant for the purposeful killing of her mother;

E. Good behavior while in prison;

F. Childhood and family experience, and the impact of each upon Defendant's personality development and mental health;

G. Remorse and apology;

H. Age (62 years old);

I. Probability of no release from prison;

J. Whether a sentence of life in prison would bring closure to the victim's family;

K. The savings to taxpayers should a life sentence be imposed.

It must be noted that Defendant did not request a pre-sentence investigation or mental examination pursuant to R.C. 2929.03(D)(1); therefore, neither were ordered for the Court's review and deliberation. In consideration of the aforementioned factors, the Court heard evidence from the following individuals.

Family and Friends

The Court heard testimony from Defendant's mother (Alluster Tipton), step-father (Charles Tipton), younger sister (Carol Smith), younger brother (Victor Davis), daughter (Sherry Davis), and two friends (Rick Rotundo and Fran Welland).

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

The testimony of each witness centered on Defendant's positive aspects and his importance in their lives. Each witness testified to maintaining some amount of contact with Defendant, despite his incarceration on death row. Each witness opposed the re-imposition of the death penalty in this case.

Prison Personnel

The Court also heard testimony from Defendant's prison case manager, Scott Nowak, regarding Defendant's positive prison record and his position on death row's "extended privilege unit" or "honor block." The Court reviewed Defendant's institutional summary, which revealed no more than a single occurrence of prison misconduct since 1984. Defendant's sole instance of misconduct occurred in 1990.

The Court also heard testimony from Jeremy Stineman, who conducted Alcoholics Anonymous meetings with death row inmates, including Defendant, for several years. Stineman testified that Defendant regularly attended meetings and participated actively.

Cynthia Mausser

The Court heard testimony from Cynthia Mausser, Chairperson of the Ohio Parole Board, who described the Parole Board's various policies and procedures. Defense counsel posed hypothetical questions to Mausser, who testified that an individual with Defendant's background is "unlikely" to be paroled at the first opportunity, and would "likely" spend a substantial portion of his adult life in prison. Mausser could not, however, state with any certainty if or when Defendant might be paroled if this Court imposed a sentence less than

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

death. Mausser did testify that if Defendant became parole-eligible, he would be considered for parole at intervals ranging from one to ten years for the rest of his life. Mausser testified that in each instance, the victim's family would be notified and could appear to voice opposition to Defendant's release.

Dr. Robert Smith

Finally, the Court heard testimony from clinical psychologist and certified addiction specialist, Dr. Robert Smith. Dr. Smith recounted Defendant's social history, including interviews that he conducted with Defendant's family members, some of whom testified during the mitigation phase of this trial. Dr. Smith also reviewed the interview summaries of other individuals who were familiar with the Defendant. Additionally, Dr. Smith reviewed Defendant's prior psychological evaluations, conducted between 1964 and 2002. After conducting interviews and reviewing summaries and evaluations, Dr. Smith met with Defendant twice. Each visit lasted approximately five to six hours. Dr. Smith testified that the aforementioned interviews and evaluations, in the aggregate, provided a sufficiently "rounded" and "longitudinal" picture of the Defendant for purposes of rendering a diagnosis.

Dr. Smith found that at the time of the offense at bar, Defendant suffered from borderline personality disorder and alcohol dependence. Dr. Smith found that Defendant suffers from these co-occurring disorders to this day. In Dr. Smith's opinion, a biological component exists with respect to the borderline personality disorder. It is Dr. Smith's belief that Defendant's borderline personality disorder formed in early adolescence when

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

Defendant's dysfunctional childhood environment and the biological component coalesced.

Dr. Smith testified that his diagnosis does not excuse or justify Defendant's actions in killing Suzette Butler, but offers some explanation as to how or why the killing occurred.

Dr. Smith testified that Defendant's good behavior while in prison is not surprising, given that individuals with borderline personality disorder function well in a highly structured environment such as prison. Ultimately, however, Dr. Smith failed to forecast Defendant's behavior or recommend a treatment plan, should he eventually be released from prison.

FINDINGS

In order to sentence Defendant to death, the law requires that the three-judge panel find beyond a reasonable doubt that the aggravating circumstance in this case outweighs the mitigating factors. The panel must consider the evidence presented as to the aggravating circumstance that transformed the offense of aggravated murder from a case in which death was not a potential penalty to one in which death is a potential penalty. This aggravating circumstance must be then weighed against the mitigating factors that would weigh in favor of a decision that a sentence of life in prison is the appropriate sentence.

The weighing process is just that. The panel must place the aggravating circumstance on one side and place all of the mitigating factors on the other, and then determine beyond a reasonable doubt whether the aggravating circumstance outweighs the mitigating factors. Proof beyond a reasonable doubt mandates that this panel have a firm

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

belief or conviction in what is to be established. Proof beyond a reasonable doubt requires that an ordinary person be willing to act upon that proof in the most important of his or her own affairs.

The aggravating circumstance in this case relates that prior to committing the aggravated murder of Suzette Butler with prior calculation and design, Defendant was previously convicted of purposefully killing Ernestine Davis. The three-judge panel unanimously finds that the aggravating circumstance deserves great weight.

Against the aggravating circumstance, the panel weighs the following mitigating factors:

In accordance with R.C. 2929.04(B), the panel finds nothing mitigating about the nature and circumstances of the offense itself.

The panel has considered the testimony offered to show that Defendant is loved and supported by family and friends. This evidence is not atypical and does not deserve significant weight. The panel has also considered the testimony of Sherry Davis and the fact that she has forgiven Defendant for purposefully killing her mother; however, the panel affords this factor very little weight. The panel further considered the testimony of Defendant's friends and family concerning his dysfunctional family and childhood experiences. The panel finds the testimony to be unconvincing and entitled to little or no weight.

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

The panel considered the impact of Defendant's family experiences upon his personality development and mental health, as detailed in Dr. Robert Smith's testimony. The panel finds that the separate testimony of Defendant's family and friends does not support Dr. Smith's conclusion that Defendant suffered an extreme and dysfunctional upbringing. Nevertheless, assuming that Defendant's background contributed in some way to the development of Defendant's borderline personality disorder and alcohol dependence, the panel still finds that Dr. Smith's diagnosis, even if valid, is entitled to little weight in mitigation.

The panel considered the testimony of Cynthia Mausser offered to show the probability that Defendant would never be released from prison if given a sentence less than death. The panel unanimously finds this evidence to be highly speculative and unconvincing and entitled to no weight.

The panel considered the Defendant's good behavior while in prison, the Defendant's advanced age, and the Defendant's remorse and apology during his unsworn statement. The panel attributes little weight to each factor.

Finally, Defendant proposed that the panel should consider that a life sentence in this case would be economically beneficial to taxpayers and would bring closure to the victim's family. The panel is uncertain whether these factors are relevant mitigating factors under Ohio law; nonetheless, the panel considered Defendant's evidence and arguments to ensure that he had a full opportunity to present all mitigating evidence during the sentencing phase.

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

After considering evidence and testimony relevant to these factors, the panel affords them no weight.

The panel must weigh all of the relevant mitigating factors, adjudge the collective weight of the factors, and determine if the sole aggravating circumstance in this case outweighs the mitigating factors beyond a reasonable doubt.

In performing that task, the Judges of this panel unanimously find that the aggravating circumstance outweighs, beyond a reasonable doubt, the individual and the aggregate of the mitigating factors present in this case. Therefore, the panel finds that the sentence of death shall be imposed upon the Defendant, Von Clark Davis.

SO ORDERED.

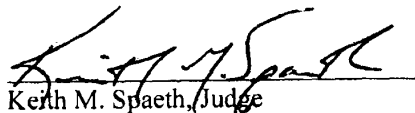
ENTER,



Andrew Nastoff, Judge



Charles Pater, Judge



Kerth M. Spaeth, Judge

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

cc:

Michael A. Oster, Jr.
Assistant Prosecuting Attorney
315 High Street, 11th Floor
Hamilton, OH 45011

Randall L. Porter
Assistant State Public Defender
8 East Long Street – 11th Floor
Columbus, Ohio 43215

Melynda Cook-Reich
REPPER, PAGAN, COOK, Ltd.
1501 First Avenue
Middletown, Ohio 45042

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

CONFIDENTIAL
ATTORNEY WORK PRODUCT

Von Clark Davis
Ohio State Penitentiary
#179-828

Von Clark Davis

Interviewed by Angie Wiley and Jessica Love on July 7, 2009 at the Ohio State Penitentiary.

REDACTED

- Von is concerned about why the defense team would be calling someone from the parole board to testify. Von believes this person will be “putting a nail in my coffin”. He does not know how this person can benefit him. Von is still hoping that he will someday be able to walk “or crawl” out of prison. Von is afraid that if they parole person states that Von will never get out, that the Judges will hear that and give him a life sentence. As of right now, Von will not consider Life without Parole as an option.
- Von stated that the Judges already understand that he will be in prison for “awhile”, is the parole board person simply there for the sake of the victim’s family. To give them comfort in knowing he will never be released.
- Von does not want to live in prison with no hope of ever getting out, “I would rather go to Lucasville”. Von would rather be sentenced to death than receive LWOP.

REDACTED

#304070
July 23, 2009

EXHIBIT

H

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO,	:	Case No. CR-1983-12-0614
	:	
Plaintiff-Respondent,	:	Judge Nastoff
	:	
v.	:	
	:	
VON CLARK DAVIS,	:	CAPITAL CASE
	:	
Defendant-Petitioner.	:	

AFFIDAVIT OF
ROBERT L. SMITH, Ph.D.
CLINICAL PSYCHOLOGIST / CERTIFIED ADDICTION SPECIALIST

COUNTY OF FRANKLIN)
) SS:
STATE OF OHIO)

I, Dr. Robert L. Smith, being first duly cautioned do state the following:

1. I am over 18 years of age, am of sound mind, and am competent to testify regarding the matters discussed in this affidavit.
2. I am a clinical psychologist licensed to practice in the State of Ohio. I have taught and practiced as a clinical psychologist for more than 28 years. From 1983 to the present, I have conducted a private practice in clinical psychology; I have directed treatment programs; I have consulted with numerous mental health agencies, hospitals, and substance abuse treatment programs; and I have worked as a forensic psychologist for the past 28 years. Currently, I am serving as the Interim Executive Director for a substance abuse and mental health organization, Stella Maris, in Cleveland, Ohio. My general qualifications as an expert in the area of clinical psychology and the treatment of addictions are set forth in my *curriculum vitae*, which were admitted as an exhibit during the September, 2009 sentencing hearing in the above-captioned case. From 1995 to the present, I have been an assistant clinical professor of psychology in the Department of Psychology of Case Western Reserve University.
3. In addition to my general qualifications, I have specific expertise in the area of substance abuse and chemical dependency. Since 2001, I have worked at Stella Maris, Inc. in Cleveland, Ohio, serving as the Project Director with a

EXHIBIT

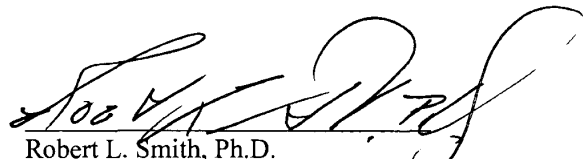
I

demonstration project studying the treatment of substance dependent, mentally ill, homeless men involved with the criminal justice system. From 1993 to 1999, I served as the Program Evaluator for a demonstration project conducted by the East Side Catholic Shelter in Cleveland, Ohio, that targeted substance dependent pregnant women and women with children.

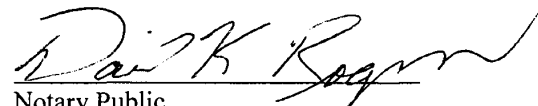
4. From 1984 to 1993, I worked at Cleveland Metropolitan General Hospital as the Director of Chemical Dependency Services with the Department of Psychiatry. My responsibilities included supervision of clinical staff, review of admissions and discharges, and direct client care.
5. After receiving a Bachelor of Arts degree in psychology from Kent State University, I obtained a doctorate degree in clinical Psychology from the same University. From 1981 to 1982 I did an internship in psychology at Cleveland Metropolitan General Hospital. From 1982 to 1983, I was a post-doctoral psychology trainee at the same hospital, focusing upon the diagnosis and treatment of alcoholism and other drug addictions.
6. I am presently certified by the American Academy of Healthcare Providers in the Addictive Disorders, and by the American College of Forensic Examiners. I am a member of the American Psychological Association and the Association for Medical Education and Research in Substance Abuse.
7. The Office of the Ohio Public Defender retained me to meet with Von Clark Davis, review relevant documents and records regarding the mitigation evidence from his trial and subsequent appeals, interview Mr. Davis' family and friends, and prepare a structured psychosocial history.
8. On September 9, 2009, I testified at Von Clark Davis' resentencing hearing in Butler County, Ohio. The purpose of my testimony was to provide the three judge panel with an opinion as to the psychological disorder Mr. Davis suffered from at the time of his offense in 1983. With a reasonable degree of psychological certainty, I found Mr. Davis suffered from two disorders, Alcohol Dependence and Borderline Personality Disorder.
9. I then explained the features of Borderline Personality Disorder, which include identity disturbances, dramatic mood swings with little provocation, an inability to interpret situations correctly, poor impulse control, and a history of difficult relationships. I also testified that this is a chronic disorder.
10. I testified that a person with Borderline Personality Disorder will adapt and adjust his or her behavior in a structured environment where there are enforced, clear-cut rules. I added that in the community, such persons have no clear structure and tend to react to what is happening around them rather than considering the potential consequences of their actions and then making a decision to respond to their surroundings.

11. I do not recall Mr. Davis' attorneys telling me what other mitigation witnesses would testify or the content of their testimony. I was not told that an Ohio Parole Board member was supposed to testify that Mr. Davis would never be paroled but, in fact, did not testify that way. I did not know that an Ohio Parole Board member testified that she could not guarantee that Mr. Davis would be in prison for the rest of his life. My testimony was limited to the mental disorders Mr. Davis suffered from at the time of his offense. I had no way of knowing that parole was an issue.
12. Had I known parole was a concern and how Von Clark Davis would interact in society if released on parole, I could have testified that with time, maturity, and freedom from drugs and alcohol, someone with Borderline Personality Disorder will gain insight and develop coping skills that would enable him to adjust to living in the outside world. I would have been able to testify that Von at the present time is a different person than he was when he was admitted to ODRC in 1984. Having been in a structured setting for the past 27 years, Von has learned to accept external rules and expectations regarding his behavior. He has developed coping strategies to deal effectively with frustration, annoyance, disappointment, etc. He has learned to weigh the potential consequences of his decisions and actions. I was never asked by defense counsel to give my opinion on these issues nor was I asked questions about this at the sentencing hearing by defense counsel.
13. Furthermore, I could have explained that the parole process itself would provide Von with significant structure and guidelines that would assist him in successfully re-entering society.

FURTHER AFFIANT SAYETH NAUGHT.


Robert L. Smith, Ph.D.
Clinical Psychologist
Ohio License No. 3403

Sworn to and subscribed before me this ^{7th}20 day of October, 2011.


Notary Public
DAVID K. ROGERS
Commission Expires
5-12-2012

STATE OF OHIO : State of Ohio, Butler County
Plaintiff : Court of Common Pleas
vs. : Case No. CR83-12-0614
VON CLARK DAVIS : O P I N I O N

Defendant **FILED in Common Pleas Court
BUTLER COUNTY, OHIO**

: : : : :
JUN 11 1984

BRUEWER, J.

**EDWARD S. ROBB, JR.
CLERK**

This opinion is made pursuant to Section 2929.03(F),
Ohio Revised Code.

This panel of three (3) judges has imposed the death
penalty and makes the following findings as to the existence
of mitigating factors and aggravated circumstances.

We find the following to be mitigating factors:

1) The Defendant adjusted well to prison routine and
during his stay in prison, obtained a high school GED and
an associate degree in Business Administration, and studied
for and worked as a dental technician.

2) There has always been a good family relationship
between the Defendant and all members of his family, including
his step father.

3) Since his release on parole, he has maintained
at least partial employment.

4) As testified by the psychologist, Defendant has
a compulsory personality disorder or explosive disorder which

107
J 380 P 117
EXHIBIT

J

**FILED in Common Pleas Court
BUTLER COUNTY, OHIO**

JUN 11 1984

2

**EDWARD S. ROBB, JR.
CLERK**

may have contributed to the violence in this case.

We find the following aggravated circumstances have been proven beyond a reasonable doubt:

- 1) The manner by which the Defendant purchased the gun, used to kill the victim in this case.
- 2) The manner by which the Defendant purchased the ammunition for the gun.
- 3) The shooting of the victim, the firing at close range and finally placing the gun almost against her skull and discharging the weapon.
- 4) The prior purposeful killing of his wife in 1970 by multiple stab wounds.
- 5) Committing the present offense while on parole for the murder of his wife.

After considering the mitigating factors and the aggravating circumstances proved beyond a reasonable doubt, we unanimously find by proof beyond a reasonable doubt that the aggravated circumstances the Defendant was found guilty of, outweigh the mitigating factors found by this panel.

The killing of the victim in this case was planned, calculated and designed by the Defendant and carried out in an execution fashion. Further, he had previously been convicted of second degree Murder for the purposeful killing of his wife. These make it impossible for this panel to arrive at any other conclusion than that the aggravated

J 380 P118

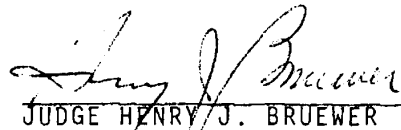
circumstances, proven beyond a reasonable doubt, outweigh the mitigating factors.

We, therefore, sentence the Defendant to death by electrocution on October 1, 1984.


FILED in Common Pleas Court
BUTLER COUNTY, OHIO

JUN 11 1984

EDWARD S. ROBB, JR.
CLERK


JUDGE HENRY J. BRUEWER


JUDGE WILLIAM R. STILLINGER


JUDGE JOHN R. MOSER

J 380 P 119

IN THE COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

FILED

'89 AUG 10 AM 9 20

STATE OF OHIO,

Plaintiff,

CLERK OF COURT CASE NO. CR83-12-0614
EDWARD S. ROBB, JR.

-vs-

:

OPINION

VON CLARK DAVIS,

:

Defendant.

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

AUG 10 1989

BRUEWER, J.

EDWARD S. ROBB, JR.
CLERK

9-10-89
C.B. cert. mail
collected
CH

This 4th day of August, 1989, this cause came on to be heard before a three judge panel consisting of Judge Henry J. Bruewer, William R. Stitsinger, and John R. Moser, on the remand of the Ohio Supreme Court, reported as State v. Davis (1988), 38 Ohio St. 3d 361, 373 "for a resentencing hearing solely for the purpose of determining whether the remaining aggravating circumstance outweighs the mitigating factors presented by (Defendant), beyond a reasonable doubt." The Court having unanimously found that the aggravating circumstance, of which the defendant was found guilty, outweighs the mitigating factors presented beyond a reasonable doubt, this opinion is made pursuant to Section 2929.03 (F), Ohio Revised Code

The aggravating circumstance in this case is that, prior to the aggravated murder at bar, the Defendant had been convicted of the offense of Second Degree Murder, an essential element of which was the purposeful killing of another, to-wit, the prior purposeful killing of his wife Ernestine Davis in 1970.

We find the following to be mitigating factors:

1) The Defendant adjusted well to prison routine and during his stay in prison, obtained a high school GED and an associate

143

EXHIBIT

0044P388

K

-2-

degree in Business Administration, and studied for and worked as a dental technician.

2) There has always been a good family relationship between the Defendant and all members of his family, including his stepfather.

3) Since his release on parole, he has maintained at least partial employment.

4) As testified by the psychologist, Defendant has a compulsory personality disorder or explosive disorder which may have contributed to the violence in this case.

All of these mitigating factors are considered to be under Section 2929.04 (B) (7), Ohio Revised Code.

We find that this aggravating circumstance outweighs the mitigating factors found by the panel by proof beyond a reasonable doubt, because the factors we find in mitigation are of slight weight. The Defendant's positive prison record, good family relationship, study and accomplishments in prison and employment while on parole were overwhelmingly counterbalanced and outweighed by the aggravating circumstance of his prior conviction for purposeful killing, demonstrating rather convincingly that a prior life sentence was no deterrent at all for this Defendant.

Defendant's explosive personality disorder, which we found may have contributed to the violence in the case at bar, may explain it but in no way excuses it, and is not of such a nature as would have any great mitigating effect. Nothing in the case indicates any verbal or physical confrontation with the victim prior to the killing which would either provoke Defendant or arouse in him a "heat of passion." Defendant's personality disorder perhaps explains

J0044P389

-3-

how he could commit unprovoked homicidal violence in the case at bar; however, this disorder did not affect the substantial capacity of the Defendant to appreciate the criminality of the crime he engaged in with prior calculation and design, or his substantial capacity to refrain from committing the offense, and indeed is such as would be had of numerous offenders who have the death sentence would not be mitigated. In sum, we have a very angry man who set out to kill his victim, having previously been convicted of a prior purposeful killing of another and having found no deterrence from committing the present offense in that prior conviction.

As we are required by Section 2929.04 (B), Ohio Revised Code, to consider the nature and circumstances of the offense, the history, character and background of the offender, and all of the factors in mitigation of the sentence of death presented herein, we find the aggravating circumstance, the Defendant's previous conviction of the prior purposeful killing of his wife in 1970, outweighs the mitigating circumstances beyond a reasonable doubt.

We, therefore, sentence the defendant to death by electrocution on December 4, 1989.

MOSER and STITSINGER, JJ. concur.

H. N. Bruewer
BRUEWER, J.

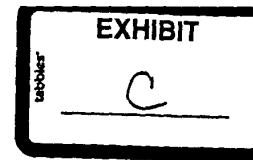
Stitsinger
STITSINGER, J.

Moser
MOSER, J.

J0044P390

05/12/2009 14:15

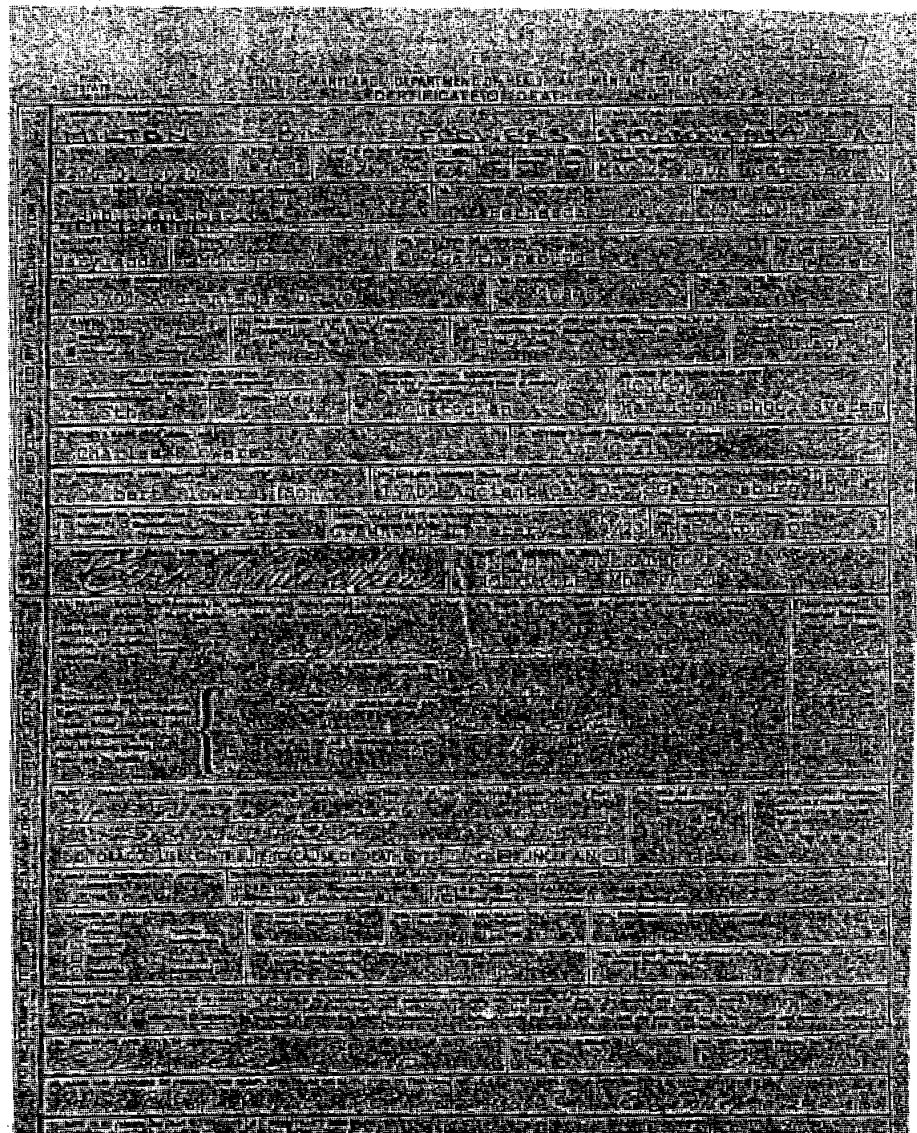
(FAX)

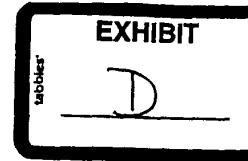


MAY 11 2009

Geneva G. Sparks

GENEVA G/SPARKS
STATE REGISTRAR OF VITAL RECORDS





**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

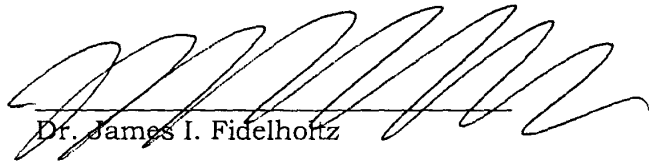
STATE OF OHIO, :
 :
Plaintiff, : **Case No. CR 1983-12-0614**
 :
vs. :
 :
VON CLARK DAVIS : **Judge Nastoff**
 :
Defendant. :

AFFIDAVIT OF DR. JAMES I. FIDELHOLTZ, M.D.

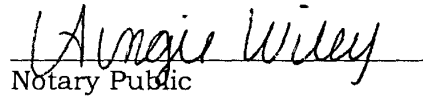
State of Ohio,
County of Hamilton, ss:

I, Dr. James I. Fidelholtz, after being duly sworn according to law, state as follows:

1. I am a medical doctor and have been licensed in the State of Ohio for thirty-three years. My office address is 6103 Hamilton Avenue, Suite A, Cincinnati, Ohio 45224. My area of specialty is internal medicine and I have a subspecialty of geriatric medicine.
2. I am affiliated with Good Samaritan Hospital in Dayton, Ohio; Mercy Hospital in Fairfield, Ohio; Mercy Franciscan Hospital in Mt. Airy, Ohio; and Deaconess Hospital in Evansville, Indiana.
3. I am the treating physician for Elizabeth Crawford. She is a person with Dementia.
4. It is my opinion, within a reasonable degree of medical certainty, that Ms. Crawford, because of her Dementia, is unable to accurately recollect impressions or observations she had of past events and as a result she will not be able to accurately relate those impressions or observations to the Court.
5. Further affiant sayeth naught.

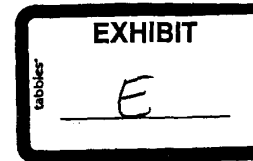

Dr. James I. Fidelholtz

Sworn and subscribed to me this the 2nd day of September, 2009


Notary Public



ANGIE WILEY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 4, 2013



**IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

STATE OF OHIO, :
 :
 Plaintiff, : **Case No. CR 1983-12-0614**
 :
 vs. :
 :
 VON CLARK DAVIS : **Judge Nastoff**
 :
 Defendant. :

AFFIDAVIT OF DR. ORLANDO HERNANDEZ, M.D.

State of Ohio,

County of Hamilton, ss:

I, Dr. Orlando Hernandez, after being duly sworn according to law, state as follows:

1. I am a medical doctor and have been licensed in the State of Ohio ~~for twenty years~~. My office address is 2827 Orchardpark Drive, Cincinnati, Ohio 45239. I am affiliated with Bethesda North Hospital, ~~Fort Hamilton Hughes Memorial Hospital~~, and Jewish Hospital of Cincinnati. *since 1998 dh*

2. I work ~~for~~ *with dh* Glendale Place Care Center, which is a skilled nursing facility. In that capacity I am the treating physician for Fannie Whiteside.

3. Ms. Whiteside is a person with Alzheimer's disease, Senile Dementia, and significant memory loss.

4. Because of these deficits, she is not able to communicate clearly, and suffers from short and long term memory loss.

5. It is my opinion, within a reasonable degree of medical certainty, that Ms. Whiteside, because of her Alzheimer's disease, Senile Dementia, and significant memory loss, is unable to accurately recollect impressions or observations she had of past events and as a result she will not be able to accurately relate those impressions or observations to the Court.

6. Further affiant sayeth naught.

[Signature]
Dr. Orlando Hernandez

Sworn and subscribed to me this the 2nd day of September, 2009

EXHIBIT

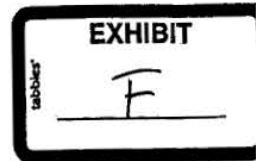
B

I HEREBY CERTIFY THIS
DOCUMENT IS AN EXACT
COPY OF THE RECORD ON FILE WITH
THE OHIO DEPARTMENT OF HEALTH.

NY-709062709

[Signature]
JUDITH B. NAUT, STATE REGISTRAR
OFFICE OF VITAL STATISTICS
WITH MY SIGNATURE & SEAL

Reg. Dist. No. 0901		Ohio Department of Health VITAL STATISTICS CERTIFICATE OF DEATH TYPE OR PRINT IN PERMANENT BLACK INK		State File No. 034317
1. Decedent's Name (First, Middle, Last) CHARLES RICHARD FLOWERS		2. Sex Male		3. Date Of Death (Month, Day, Year) May 7, 2005
4. Social Security Number [REDACTED]	5a. Age-Last Birthday (Years) 81	5b. Under One Year Months Days Hours Minutes	6. Date of Birth (Month, Day, Year) [REDACTED]	7. Birthplace [REDACTED]
8. Place of Death (Check Only One) <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> OCA <input type="checkbox"/> Other <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)		9. Facility Name (If Not Institution, Give Street And Number) Fort Hamilton Hospital		
10. Marital Status (Married, Never Married, Widowed, Divorced, (Specify)) Married		11. Surviving Spouse (If Wife, Give Maiden Name) Sylvia Zarling		12. Decedent's Usual Occupation (Give Kind of Work Done During Most of Working Year. Do Not Include Retired) Electrical Engineer
13a. Residence-State OH	13b. County Butler	13c. City, Town, Twp., or Location Manover Twp.	13d. Street and Number [REDACTED]	14. Was Decedent of Hispanic Origin? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If Yes, Specify Cuban, Mexican, Puerto Rican, etc.)
15. Inside City Limits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	16. ZIP Code 45013	17. Race (Specify) White	18. Decedent's Education (Month, Day, Year) 12	
19. Father's Name (First, Middle, Last) Joseph Flowers		20. Mother's Name (First Middle, Maiden Surname) Mary Sutton		
21. Informant's Name (First, Middle, Last) Sylvia Flowers		22. Mailing Address (Street and Number or Rural Route Number, City or Town, State, ZIP Code) [REDACTED] Hamilton, OH 45013		
23a. Method of Disposition <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		23b. Place of Disposition (Name of Cemetery, Crematory or Other Place) St. Aloysius Cemetery		23c. Location City or Town, State Shandon, OH Butler Co.
24. Date of Disposition May 13, 2005		25. Name of Embalmer (First, Middle, Last) George R. Brown, II		26. License Number 6276A
27. Signature of Funeral Director or Other Person <i>[Signature]</i>		28. License Number (of Licensee) 5309		29. Name and Address of Facility (Include City, State and ZIP Code) Brown-Dawson Funeral Home 330 Pershing Avenue Hamilton, OH 45011
30. Registrar's Signature <i>[Signature]</i>		31. Date Filed (Month, Day, Year) May 13, 2005		32. Dist. No. 0901
33. Signature of Person Issuing Permit <i>[Signature]</i>		34. Date Permit Issued May 9, 2005		
35. Certifier (Check Only One) <input checked="" type="checkbox"/> Certifying Physician To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. <input type="checkbox"/> Coroner On the basis of examination and/or investigation in accordance with the law.				



CONFIDENTIAL
ATTORNEY WORK PRODUCT

Elizabeth Crawford (Paternal Aunt)

Davis

Interviewed by John Lee and Peggy Kent on 7/13/93 in the home of her mother, Grace Ayers. Mrs. Ayers resides at [REDACTED], Hamilton, Ohio. Her phone number is [REDACTED].

Elizabeth Crawford is the paternal aunt of our client, Von Davis. Grace Ayers is Von's paternal grandmother. Elizabeth was the primary respondent in the interview but she would sometimes refer questions on the family history to her 84-year old mother who was present. Both Elizabeth and Grace were able to offer some historical perspectives on Von's father's side of the family, however, they had limited contact with Von during his childhood.

- Liz reported her parents are Grace Ayers and Thomas Elliot Davis. Her father, Thomas, died in 1972.

Liz reported her parents had 3 children:

Phyllis Scott - D.O.B. [REDACTED] - resides at [REDACTED] Teaneck, N.J.
Ph.# [REDACTED].

Nick Davis - D.O.B. [REDACTED] - deceased

Elizabeth Davis - D.O.B. [REDACTED]

- Liz reported her brother, Nick, drowned in December of 1974. His body was found in a river in Washington, D.C., which Liz found to be strange. In addition to be an excellent swimmer, the family could not understand how he could have gotten down too the river's edge because he walked with a cane.
- Liz reported all of the Davis children were born in Hamilton. There were no problem pregnancies in births.

Grace reported only Liz had a serious childhood illness, spinal meningitis. Nick was a healthy child who had no developmental problems.
- Liz reported her father worked as a porter on the railroad and her mother worked as an office cleaner at Ohio Casualty.
- Liz reported her mother was in charge of the household but both parents disciplined the children. Nick got more spankings than his sisters for not doing what he was supposed to do. He also would take some spankings for his sister (take blame for her acts) in exchange for whatever sweets she had. (cookies, candy, etc.)
- Liz recalled Nick did not do well in school. He had a temper that resulted in numerous schoolyard fights. Nick attended Harrison Elementary

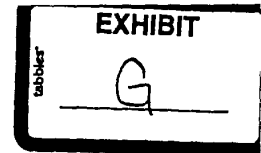
and Roosevelt Jr. High before dropping out in the seventh grade. Both Liz and Grace reported Nick was sent to Boys Industrial School in Cleveland when he was about 15 or 16 years old. Nick was placed in B.I.S. for truancy and fighting. Grace believed he remained in BIS for 6 months. When Nick was released, he did not re-enroll in school.

- Grace reported Nick returned to Hamilton after his release and went to work for a local dry cleaners for a brief period prior to enlisting in the Navy. Nick left school during his ninth grade year at Roosevelt Jr. High School.

Nick enlisted in the service in September of 1944 but he met and dated Alluster prior to his enlistment. Liz believes that Alluster might be two years older than Nick. Nick completed one term in the service (2 or 3 years) and returned to Hamilton after being discharged honorably.

- Liz nor Grace could recall when Nick and Alluster were married but they both agreed their first child Elliot was born after Nick left the service. Liz believes the couple had their own apartment by the time Elliot was born.
- Liz reported that she went to school with Alluster in Hamilton. Liz also recalled that Alluster was not a woman to bother because she was tough. According to Liz, "you didn't bother her. She didn't go around starting things but when the deal went down, she ended it." Liz recalled children rarely picked on Alluster because she was a good fighter.
- Liz reported she knew Alluster's mom as Vick, but she did not have much contact with Alluster's mother.
- Liz recalled that Nick and Alluster "got into it" frequently. She did not know if the police were ever called but she does not think that was the case.
- Liz reported that both Nick and Alluster drank but Nick was the heavier drinker of the two. She believed that her brother had a long term problem with alcohol but he never sought professional help for his problem.
- Liz recalled at the funeral of their father, Nick, who had been drinking, "fell out" and had to be caught by other family members. Nick also had to go to court at one time for taking an unauthorized trip to Detroit in the Von belonging to his employer. Liz believes these actions were part of a drinking binge but Nick did not have to go to jail for theft. Liz believes it was after this incident that Nick left his family for good and went to live in Washington, D.C. with his father. (Liz reported her parents had been separated for a while when Nick moved to D.C.) At the time Nick moved to D.C. all his children had been born but his divorce from Alluster had not been finalized.
- Liz reported drank a lot and he had a temper. She believes it was that combination that caused the marriage to break up. Despite Nicks excessive weekend drinking, he did provide for the family financially and when he was sober, he was a decent father. Liz recalled that her brother was far from "A-1" as a father but he was never physically abusive towards his children.

- Liz recalled Alluster never complained to other family members about Nick. In addition to his alcoholism, Nick was known to see other women while he was married. Liz did not know if Nick had children from any of his extramarital relations.
- Liz reported Nick and Alluster had five children: "Butch" (Elliot), Von, Carol, Greg and Victor.
- Liz described Von as a quiet little boy. "He was not a slow child just a quiet child." Von seemed normal developmentally and he got along with his peers. Liz could not recall Von being a problem child behaviorally. Liz did not know how far Van went in school or how he did academically.
- Liz recalled Von went into the Navy after he left school and that he seemed to be glad when he got out. Liz was not aware of any particular goals Von had. She recalled he did work as an auto body man, as well as a dental technician.
- Liz could not recall Von having any major illness as an adult or as a child. She also had no knowledge of Von using drugs or alcohol.
- Liz reported her first awareness of Von encountering legal problems came when he killed his wife, Ernestine. She recalled he was incarcerated for 8 or 9 years. When he was released from prison, Von did not talk about his time in prison. He seemed essentially the same to Liz when he got out, quiet.
- Liz reported when Von was sent to prison for the second time, she wrote to him early on but Von never responded.



**CONFIDENTIAL
ATTORNEY WORK PRODUCT**

Dr. Charles Flowers
Virginia Beach, Virginia
Phone #(804-460-7501 (work)

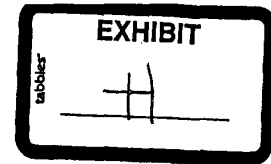
Von Clark Davis

Interviewed by John Lee and Steve Cheney on 6/9/93 via telephone.

Charles Flowers is an academic and guidance counselor in the Virginia Beach City Schools. He hails from Hamilton, Ohio and had some knowledge of Von's parents. Dr. Flowers was able to give some limited historical perspectives on the Davis family and a few insights on Von. Dr. Flowers can be contacted in the mornings at the number above.

- Charles reported having taught in the Hamilton City Schools for six years, however, Von was never one of his students. His knowledge of Von and the Davis family came from having grown up with Von's parents in the same neighborhood in Hamilton.
- Charles described his neighborhood, Forest Park, as a poor, predominantly Black, working-class neighborhood. Most of the parents of his peers were from the south and had little education. Church attendance was stressed and most of the families attended either a baptist or methodist church.
- Charles reported Von's mother, Alluster, lacked religious development as a child. Alluster was reared in the home of her maternal grandmother, Mrs. Bailey, who was a member of what Charles characterized as a "fringe" church (a holiness church). Charles believes Alluster's lack of direction, both domestically and spiritually, may have contributed to her "wild" nature.
- Charles believes Alluster's mother was Vicki Bailey and he did not recall whether or not Vicki was married at the time of Alluster's birth.
- Vicki lived with her mother, Mrs. Bailey, at the time of Alluster's birth along with numerous aunts and uncles. Charles recalled that Mrs. Bailey was the matriarch of the family and "all the children were under her; Alluster had two mothers."
- Charles, who lived next door to the Bailey home, recalled there were few positive role models in the home because all the uncles and Vicki were all "drinkers and carousers." Charles would not be specific but he speculated that morals in the Bailey home were rather loose.
- Charles described Alluster as a "happy-go-lucky" kid, who was not a good student. There was an emphasis on behaving in the Bailey home and if you did not you got a whipping. Charles also reported Alluster had a temper and if you got in her face, she would fight you. Charles reported she fought almost daily and may have been suspended from school at some time.

- Charles reported Alluster got pregnant either in junior high school or early in high school. He believes the father was Nick Davis. Charles believes Alluster left her grandmother's home to live with Nick about a year after the birth of her first child. (Charles believes Alluster was between the ages of 15 and 17).
- Charles remembered Nick Davis as being a very popular young man in Hamilton. Nick did not finish high school; however, his sister, Elizabeth Davis Herbert, was an honor student. Charles believes Elizabeth still resides in Forest Park. Charles has no knowledge of the whereabouts of any other Davis family members.
- Charles reported Nick and Alluster had 3 children before they married. Charles stated that there was some speculations in the community that Alluster's fourth child was not fathered by Nick. Charles did not know who the father might have been.
- Charles recalled that Alluster and Nick fought frequently. Most of the arguments centered on Nick's absence from the family home. Charles reported that Nick would continue to go night clubbing during his wife's pregnancies when she could not. Nick also traveled to Chicago and Detroit frequently for unknown reasons. Charles reported Alluster and Nick fought physically and the children saw them.
- Charles described Von as a very poor student who had no academic discipline, "just like his mother." He also believes that Von did not have good male role modeling because of the "parade of men" in and out of the home.
- Charles believed Von learned to hate women because he was always being whipped by one, be it his mother or one of his female relatives. Charles stated that he thinks a great deal of Alluster's anger from her childhood carried over to her adult life, and that unresolved anger resulted in numerous whippings for Von.



IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, :
Plaintiff-Respondent, :
-vs- : Case No. CR 83-12-0614
VON CLARK DAVIS, :
Defendant-Petitioner. :

EXHIBIT U

AFFIDAVIT OF MILTON FLOWERS

STATE OF OHIO,
COUNTY OF BUTLER, SS:

I, Milton Flowers, being first duly sworn according to law, state the following:

- 1) I am a family friend of Petitioner Davis.
- 2) I became acquainted with Petitioner's family when I lived next door to them in Hamilton, Ohio. Petitioner's mother, Alluster, was just a baby. In addition to Alluster, Alluster's mother, Hattie Bailey, and Alluster's grandmother lived in the home.
- 3) I really did not believe that Hattie Bailey had all her marbles. She was no mother at all to Alluster. If it were not for Alluster's grandmother and her uncle Tecumsah, I do not know what would have happened to Alluster.
- 4) Hattie did not care what Alluster would do; she just wanted Alluster to stay out of her way.

5) Hattie was a violent character who would become abusive. She would say a lot of things she would be sorry for later.

6) Alluster, like her mother, had a violent temper. It did not take much for her to get upset. She got into numerous fights.

7) Alluster married Petitioner's father, Nick Davis, at a very young age. When Alluster and Nick were first married, there were at times food shortages in their home.

8) Alluster was just about like Hattie as a mother.

9) After Nick and Alluster separated, there were a lot of men in and out of Alluster's life. The quality of care for the children, including Von, was poor.

10) Von was very small as a child. He suffered because of his size; he felt as if he were being taken advantage of.

11) Von had a violent temper. At times when he was angry, the other kids would have to catch and hold him until he cooled down.

12) Von would have violent outbursts in school. These outbursts were like those that Alluster and Hattie had.

13) I feel that Von is a product and victim of his environment. He faced rejection both at home and in the community.

14) Von was really out there on his own while he was growing up. He was not able to go home to talk to anyone.


15) I would have been willing to testify on Von's behalf at his original capital trial in 1984 and at his resentencing in 1989.

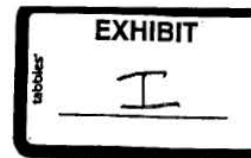
16) I love Von and do not want him to be executed.

Further Affiant saith naught.


MILTON FLOWERS

Sworn to and subscribed in my presence this 28th day of September, 1993.


NOTARY PUBLIC
JOANN M. BOUR-STOKES, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.



CONFIDENTIAL
ATTORNEY WORK PRODUCT

Fannie Whiteside

Davis

Forest Park, Ohio

Phone

DOB:

Interviewed by John Lee and Peggy Kent at her home on 6/23/93.

- Fannie Whiteside is the maternal great aunt of Von Davis. Fannie made it clear that she had very limited contact with Von or with his mother Alluster. She was able to give some limited social history on Alluster but because of the age difference and the fact she moved away from Hamilton when she married, very little of significance was offered. Fannie also stated that she is in favor of the death penalty.
- Fannie reported Alluster's mother was Hattie Bailey. Fannie did not believe Hattie was married at the time of Alluster's birth. Alluster was born in St. Louis where Hattie was living with her sister, Allie Bailey. Both Allie and Hattie moved to Hamilton, Ohio together. Allie, who is Fannie's oldest sister, helped raise Alluster's children. Fannie believes at one point Allie told Von that Nicholas Davis was not his father. Fannie does not know if that is the case.
- Fannie recalled that Hattie Bailey worked full time at a factory until her retirement which is why Alluster was raised essentially by her grandmother, Evelyn Bailey, and Aunt Allie.
- Fannie recalled Alluster did not attend school regularly which later impaired her ability to keep a job. She does not believe Alluster had a problem with drugs or alcohol.
- According to Fannie, Alluster liked to have a good time and ran around with several men. Fannie thinks that three of her children Von, Victor and Charles may have had different fathers.
- Fannie did not know how old Alluster was when she married Nick Davis. Fannie thought Nick was "O.K." The only other information she could offer regarding Nick was that he worked in a pressing shop and died in Michigan. She believes they were married about ten years.
- Fannie believes Nick's mother may still be living in Oxford, Ohio.
- Fannie has no recollection of Von as a child or as an adult. "All I know is he killed two women." Fannie did not know either of the women.
- Fannie was told by other family members that he did not deal with his two daughters when he was released from prison. His oldest daughter tried to contact him on several occasions but Von would not see her. Fannie believes that the children were present when their mother was killed. Fannie currently has no contact with Von's children.

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff FILED

: STATE OF OHIO
COUNTY OF BUTLER

vs. '96 JUL 24 PM 1 16 :

COURT OF COMMON PLEAS
(Moser, J.)

1. *Phragmites* (Common Reed)

LAHRAY THOMPSON CLERK OF COURTS

Defendant

MEMORANDUM IN OPPOSITION TO
DEFENDANT'S MOTION TO ALLOW
DEFENSE TO ARGUE LAST
AT MITIGATION PHASE

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to allow the defense to argue last in penalty-phase closing arguments, filed herein on April 4, 1996, says that the defendant's motion is not well taken. This motion is "backed by neither law nor effective argument," see State v. Evans (1991), 63 Ohio St.3d 231, 251, 586 N.E.2d 1042, 1059.

It is clear that the State bears a very high burden of proof in a criminal case -- proof beyond a reasonable doubt. Accordingly, it was held in State v. Jenkins (1984), 15 Ohio St.3d 164, 214-215, 473 N.E.2d 264, 307-308, that the prosecutor should argue first and last in the penalty-phase final arguments, since the State bears the burden of proof in the penalty phase of a capital trial (to prove that the aggravating circumstances outweigh the mitigating factors by proof beyond a reasonable doubt), See also State v. Rogers (1985), 17 Ohio St.3d 174, 182-183, 478 N.E.2d 984, 993, State v. Hicks (1989), 43 Ohio St.3d 72, 80, 538 N.E.2d 1030, 1039, and State v. Grant (1993), 67 Ohio St.3d 465, 483, 620 N.E.2d 50, 69.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

EXHIBIT

M

-3-

FILED

WHEREFORE, the defendant's motion should be overruled.

T. MARK CLARK
CLERK OF COURTS

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

Daniel J. Gattermeyer

DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

Daniel A. Nastro

DANIEL A. NASTRO (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 24 day of July, 1996.

Daniel J. Gattermeyer

DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

: CASE NO. CR95-12-1111

CA96-05-0094

Plaintiff

FILED

STATE OF OHIO

COUNTY OF BUTLER

vs.

'96 JUL 24 PM 1

COURT OF COMMON PLEAS

(Moser, J.)

T. SANK, JUDGE

CLERK OF COURTS

LAHRAY THOMPSON

Defendant

MEMORANDUM IN OPPOSITION TO
 DEFENDANT'S "VOIR DIRE MEMORANDUM"
 RE PROPER STANDARD FOR DEATH-
 QUALIFICATION EXCUSAL

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's "voir dire memorandum" regarding the proper standard for death-qualification, filed herein on April 4, 1996, says that the defendant's proposition of law is incorrect.

Death-qualification of jurors was upheld as proper in State v. Jenkins (1984), 15 Ohio St.3d 164, 473 N.E.2d 264, at paragraph two of the syllabus. The Ohio Supreme Court in State v. Rogers (1985), 17 Ohio St.3d 174, 478 N.E.2d 984, *vacated on other grounds* (1985), 474 U.S. 1002, following the standard enunciated in Wainwright v. Witt (1985), 469 U.S. 412, 420, established as a matter of Ohio law that a prospective juror in a capital case is subject to challenge for cause based on his views in opposition to capital punishment if "those views would prevent or substantially impair the performance of his duties as juror in accordance with his instructions and his oath." Rogers, id., at paragraph three of the syllabus. See also State v. Beuke (1988), 38 Ohio St.3d 29,38, 526 N.E.2d 274, 284, and State v. Greer (1988), 39 Ohio St.3d 236, 248, 530 N.E.2d 382, 397.

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
 PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
 P.O. BOX 515
 HAMILTON, OHIO 45012

-2-

FILED
JUL 24 PM 1:14

The Court has several times reaffirmed its holding in Rogers, rejecting the very argument made by defendant herein that the Ohio statute, R.C. 2945.25(C), demands a different, "stricter" standard for death qualification in Ohio, as opposed to the federal constitutional standard. See, e.g., State v. Roe (1989), 41 Ohio St.3d 18, 21, 535 N.E.2d 1351, 1357, and most recently, State v. Frazier (1995), 72 Ohio St.3d 323, 329, 652 N.E.2d 1000, 1007. The Rogers line of cases clearly establish that the standard under the Federal Constitution and the Ohio statute are identical. It has also been held that a juror who is excludable under the Wainwright v. Witt or Rogers standard is "unsuitable" to be a juror under R.C. 2945.24(O), see State v. Greer, 39 Ohio St.3d at 248, 530 N.E.2d at 397; State v. Beuke, 38 Ohio St.3d at 38, 526 N.E.2d at 284; and State v. Buell (1988), 22 Ohio St.3d 124, 139, 489 N.E.2d 795, 808.

The attached death qualification question as asked by this Court in State v. Benge (1993), Butler C.P. No. CR93-02-0116, (excerpt from Trial Transcript pp. 52-54), affirmed in State v. Benge (Dec. 5, 1994), Butler App. No. CA93-06-116, unreported, is a proper form for applying the Wainwright v. Witt / Rogers standard.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-3-

JUL 24 1996

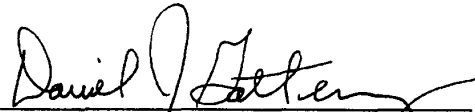
FILED

CLERK

WHEREFORE, the defendant's proposed standard for death-qualification should be rejected, and the attached questioning standard, or similar wording, should be utilized in the voir dire of this case.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 22 day of July, 1996.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY

FILED

LA 96-05-0094

Plaintiff

96 JUL 24 PM 1:10

STATE OF OHIO

COUNTY OF BUTLER

VS.

L. 1484 : 1483 :

COURT OF COMMON PLEAS

CLEAN & COLATS

(Moser, J.)

LAHRAY THOMPSON

Defendant

FILED IN Common Pleas Court
COUNTY, OHIO MEMO

JUL 24 1996

MEMORANDUM IN OPPOSITION TO DEFENDANT'S

MOTIONS TO LIMIT PROSECUTOR'S

EVIDENCE AND ARGUMENT IN

THE PENALTY PHASE

• • • • •

"MOTION TO LIMIT PROSECUTOR'S ARGUMENT TO THE AGGRAVATING CIRCUMSTANCES PROVEN AT THE FIRST PHASE OF THE TRIAL AND TO LIMIT THE PROSECUTOR'S PRESENTATION OF EVIDENCE AND ARGUMENT TO PROPER REBUTTAL OF THE DEFENSE PRESENTATION,"

"MOTION TO ALTER DEFINITION OF MITIGATING CIRCUMSTANCES TO REMOVE REFERENCE TO REDUCING THE DEGREE OF BLAME AND TO SO LIMIT PROSECUTOR IN HIS ARGUMENT"

filed herein on April 4, 1996, and

Defendant's motions seek to severely restrict and limit the prosecutor's penalty-phase argument. However, the Ohio Supreme Court has clearly outlined the range of permissible argument for a prosecutor in the "mitigation" or "penalty" or sentencing" phase of a capital trial, see State v. Gumm (1995), 73 Ohio St.3d 413, 653 N.E.2d 253, where the Court held in its syllabus:

Subject to applicable Rules of Evidence, and pursuant to R.C. 2929.03(D)(1) and (2), counsel for the state at the penalty stage of a

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6374

capital trial may introduce and comment upon (1) any evidence raised at trial that is relevant to the aggravating circumstances specified in the indictment of which the defendant was found guilty, (2) any other testimony or evidence relevant to the nature and circumstances of the aggravating circumstances specified in the indictment of which the defendant was found guilty, (3) evidence rebutting the existence of any statutorily defined or other mitigating factors first asserted by the defendant, (4) the presentence investigation report, where one is requested by the defendant, and (5) the mental examination report, where one is requested by the defendant. Further, counsel for the state may comment upon the defendant's unsworn statement, if any. (R.C. 2929.03[D], construed; State v. DePew [1988], 38 Ohio St.3d 275, 528 N.E.2d 542, affirmed and followed.)

Thus, the Court has rejected the argument presented in defendant's motions that the prosecutor must restrict his penalty-phase remarks to a rote, "professorial" outline of the aggravating circumstances specified in the indictment and proven in the guilt phase of trial. Neither the Eighth Amendment nor cases decided by the Ohio or United States Supreme Courts preclude the prosecutor from argument in the penalty phase concerning the nature and circumstances of the murder itself, see State v. Gumm, 73 Ohio St.3d at 416-418, 653 N.E.2d at 259-264. Indeed, the statute itself, R.C. 2929.03, requires the sentencing authority (jury and judge, or three-judge panel) to consider the nature and circumstances of the offense, see Gumm, *id.* at 418-420, citing State v. Jenkins (1984), 15 Ohio St.3d 164, 174, 473 N.E.2d 264, 277-278, State v. Steffen (1987), 31 Ohio St.3d 111, 116-117, 509 N.E.2d 383, 390, and State v. Stumpf (1987), 32 Ohio St.3d 95, 99, 512 N.E.2d 598, 604. The Court also noted that "it is only by considering the nature and circumstances of the offense, as

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

3

JUL 24 1996

well as the statutory aggravating circumstances, that it is possible to prevent a rigid and mechanistic sentencing scheme, Gumm, *id.* at 420, citing State v. Jester (1987), 32 Ohio St.3d 147, 153, 512 N.E.2d 962, 969; and in Gumm it was also noted that "some crimes are by their very nature so 'horrendous' or 'harrowing' that it would be difficult to imagine factors that might be mitigating," Gumm, *id.*, citing State v. Morales (1987), 32 Ohio St.3d 252, 262, 513 N.E.2d 267, 277, and Steffen, *supra* at 128, 509 N.E.2d at 398. The Court in Gumm reasoned that in DePew it was held that a prosecutor in the penalty stage of a capital case may introduce, and comment upon, any evidence raised at trial that is relevant to the aggravating circumstances, which allows the prosecutor to reintroduce much if not all of the evidence heard in the guilt phase; and in many cases it has been held that once lawfully inserted into the sentencing considerations, admissible evidence is subject to fair comment by both parties, see, e.g., State v. Greer (1988), 39 Ohio St.3d 236, 253, 530 N.E.2d 382, 402, and State v. Lorraine (1993), 66 Ohio St.3d 414, 420, 613 N.E.2d 212, 218. The Court in Gumm cautioned prosecutors (and trial courts in their instructions and sentencing opinions) to avoid imprecise designation of the "nature and circumstances of the offense" as "aggravating circumstances" to be "weighed against" the mitigating factors, *cf.* State v. Davis (1988), 38 Ohio St.3d 361,

367-368, 528 N.E.2d 925, 931-932. However, so long as the prosecutor does not confuse "aggravating circumstances" with the nature and circumstances of the

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

4

FILED JUL 24 1996
BUTLER COUNTY, OHIO

FILED

JUL 24 1996

95 JUL 24 PM 1 11

T. MARK GADEN
CLERK

T. MARK GADEN

CLERK OF COURTS

aggravated murder, he is perfectly within the proper bounds of final argument to comment on the nature and circumstances of the aggravated murder which are relevant to the sentencing considerations.

Gumm also holds that it is permissible to comment on the defendant's unsworn statement, see syllabus in Gumm; see also State v. Mapes (1985), 19 Ohio St.3d 108, 115-116, 484 N.E.2d 140, 147 ("If a defendant chooses to make an unsworn oral statement to the jury, the prosecution should be allowed to argue that the defendant's statement has less credibility because it is not given under oath. *** [T]he state should be able to dispute the weight of that statement ***.").

Defendant's suggestion that the prosecutor may not comment on relevant aspects of the murder victim's character which have been admitted in evidence in either the guilt or penalty phase of trial is an argument that has been rejected by unanimous decisions of the Ohio Supreme Court in State v. Loza (1994), 71 Ohio St.3d 61, 82, 641 N.E.2d 1082, 1105, and State v. Fautenberry (1995), 72 Ohio St.3d 435, 438-440, 650 N.E.2d 878, 881-882. The Court in Fautenberry noted the fact that the cases on which defendant's argument relies, Booth v. Maryland (1987), 482 U.S. 496, and South Carolina v. Gathers (1989), 490 U.S. 805, were overruled in Payne v. Tennessee (1991), 501 U.S. 808, which held that the Eighth Amendment erects no *per se* bar to the admission of victim-impact evidence. Thus,

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

in Fautenberry the Ohio Supreme Court held that "evidence which depicts *both* the

JUL 24 1996

BUTLER COUNTY, OHIO

circumstances surrounding the commission of the crime and also the impact of the murder on the victim's family may be admissible during both the guilt and the sentencing phases." *Id.* (Emphasis per the Court in Fautenberry.) The Court cited State v. Loza as an example where evidence relating to victim-impact (e.g., the fact that one of the victims was pregnant, that the killings represented "many years" of potential life expectancy) was admissible in the guilt phase of trial as facts surrounding the offense, and thus comments by the prosecutor in the sentencing phase relating to such victim-impact evidence was permissible. The Court in Fautenberry carefully pointed out that expressions of a witness's opinion as to the appropriate sentence, e.g., that the victim's family desires that defendant be sentenced to death (as allowed by statute in most non-capital cases pursuant to R.C. 2943.041) are not admissible in a capital case. Fautenberry, 72 Ohio St.3d at 439, 650 N.E.2d at 882; accord, State v. Huertas (1990), 51 Ohio St.3d 22, 553 N.E.2d 1058, syllabus. However, the Court in Fautenberry specifically allowed testimony from the victim's family members and employer concerning the impact of the victim's death on his survivors. Fautenberry, *id.* at 438-439, 650 N.E.2d at 881-882.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

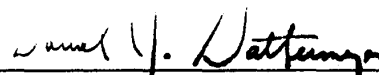
216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

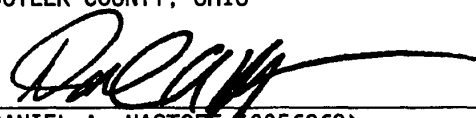
6

WHEREFORE, the defendant's motions should be denied.

Respectfully submitted,

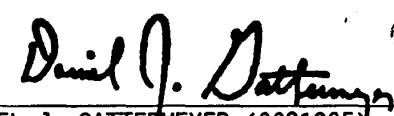
JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 24th day of July, 1996.


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

FILED
JUL 24 PM 1 11

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

FILED

STATE OF OHIO

COUNTY OF BUTLER

vs.

'96 JUL 24 PM 1 16

COURT OF COMMON PLEAS

(Moser, J.)

LAHRAY THOMPSON

Defendant

MEMORANDUM IN OPPOSITION TO DEFENDANT'S
 MOTION TO PROHIBIT REFERENCES TO THE
 JURY THAT A VERDICT AS TO DEATH IS ONLY
 A RECOMMENDATION

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to prohibit references to the jury that a verdict as to death is a nonbinding recommendation, filed on April 4, 1996, says that defendant's motion is not well taken. Defendant's argument has been rejected numerous times by the Ohio Supreme Court. In State v. Jenkins (1984), 15 Ohio St.3d 164, 473 N.E.2d 264, at paragraph six of the syllabus, the Court held,

The jury in the penalty phase of a capital prosecution may be instructed that its recommendation to the court that the death penalty be imposed is not binding and that the final decision as to whether the death penalty shall be imposed rests with the court.

This Court in the trial of another capital case gave the following instruction, in State v. Williams, Butler Common Pleas No. CR90-08-0665:

"It is going to be your responsibility *** to decide what sentence to recommend to this Court regarding the charge of aggravated murder with Specifications ***.

"I have used the word 'recommend' and I want you to make sure that you understand you are not to construe that word to diminish your responsibility in this matter. It is an awesome task, and the fact that the word 'recommend' is used should not be considered by you to lessen your task." (Trial Transcript in Williams, Vol. XI, page 200, copy attached.)

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

 JOHN F. HOLCOMB
 PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
 P.O. BOX 515
 HAMILTON, OHIO 45012

-2- FILED

JUL 24 1996

'96 JUL 24 PM 1 15

The conviction and death sentence in that case were affirmed with approval of that instruction, see State v. Williams (Nov. 20, 1992), Butler App. No. CA91-04-060, unreported, at pages 13-15, affirmed, State v. Williams (1995), 73 Ohio St.3d 153, 652 N.E.2d___ (the issue was not even raised in the Supreme Court).

A similar instruction in State v. Mills (1992), 62 Ohio St.3d 357, 375, 582 N.E.2d 972, 988, that told the jury that "you should recommend the appropriate sentence as though your recommendation will, in fact, be carried out," and the Ohio Supreme Court stated, "we commend the trial judge for his instruction."

Since Jenkins, while the Court has held that such instruction accurately states Ohio law and does not constitute reversible error, it has also stated its "preference" that no comment be made on the question of who bears the ultimate responsibility for determining the appropriateness of a death sentence. See, e.g., State v. Loza (1994), 71 Ohio St.3d 61, 73-74, 641 N.E.2d 1082, 1099; State v. Henderson (1988), 39 Ohio St.3d 24, 30; 528 N.E.2d 1237, 1243; State v. Williams (1986), 23 Ohio St.3d 16, 21-22, 490 N.E.2d 906, 912; and State v. Steffen (1987), 31 Ohio St.3d 111, 113-114, 509 N.E.2d 383, 387-388. The instruction given by this Court in the Williams trial is not only an accurate statement of Ohio law but also ensures that the jury takes its responsibility very seriously. The State therefore requests that the same instruction be given herein, as approved by the Court of Appeals and "commended" by the Supreme Court in Mills.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-3-

FILED

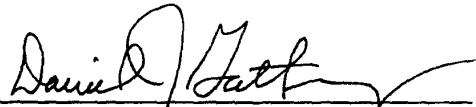
JUL 24 1996


'96 JUL 24 PM 1 16

WHEREFORE, the defendant's motion should be overruled.

Respectfully submitted,


JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 24 day of July, 1996.


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

FILED

CA 96-05-0094

'96 JUL 24 PM 1 16

vs.

STATE OF OHIO

COUNTY OF BUTLER

COURT OF COMMON PLEAS

(Moser, J.)

LAHRAY THOMPSON

CLERK OF COURTS

BUTLER COUNTY, OHIO

Defendant

JUL 24 1996

MEMORANDUM IN OPPOSITION TODEFENDANT'S REQUESTEDPRE-VOIR DIRE JURY INSTRUCTIONS

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's requested pre-voir dire jury instructions, filed herein on April 4, 1996, says that the defendant's motion is proper in general, in that preliminary remarks about the procedures involved in a capital case are appropriate; however, the prosecution objects to the defendant's proposed instructions, and says that the preliminary instructions and remarks as given by this Court in State v. Bengel (1993), Butler C.P. No. CR93-02-0116, affirmed in State v. Bengel (Dec. 5, 1994), Butler App. No. CA93-06-116, unreported, are tested, correct instructions on the concepts which should be addressed in commencement of the voir dire in a capital case. (Certain minor modifications would be in order inasmuch as there is no longer a "special venire" for capital cases after repeal of former R.C. 2945.18 and 2945.19.)

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-2-
FILED

'96 JUL 24 PM 1 16

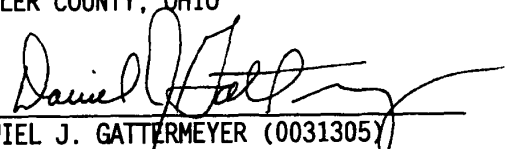
JUL 24 1996


CLERK

WHEREFORE, the defendant's motion should be granted in part, defendant's proposed instructions should be rejected, and instructions as given in State v. Benge, or similar preliminary remarks, should be given.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

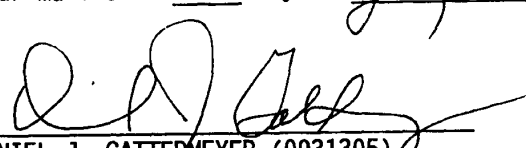
PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 24 day of July, 1996.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6385

-2-

JUL 24 1996

FILED

JUL 24 PM 1 15

reversed absent a showing that the trial court abused its discretion in restricting the scope of voir dire, see Heurtas, id., State v. Jenkins (1984), 15 Ohio St.3d 164, 186, 473 N.E.2d 264, 286, and State v. Lundgren (1995), 73 Ohio St.3d 474, 481, 653 N.E.2d 304, 315. Restrictions on voir dire have generally been upheld, see Lundgren, id., and numerous cases cited therein.

The fact that latitude is allowed counsel, however, does not mean that a juror whose views on capital punishment renders him subject to challenge for cause because "those views would prevent or substantially impair the performance of his duties as juror in accordance with his instructions and his oath," see Wainwright v. Witt (1985), 469 U.S. 412, 420, can be fully "rehabilitated" by further examination of defense counsel. "If a trial court finds that a juror has expressed unwillingness to follow the court's instructions, the ability of defense counsel to elicit somewhat contradictory views from the juror does not, in and of itself, render the trial court's judgment [to exclude the juror for cause] erroneous." State v. Frazier (1995), 72 Ohio St.3d 323, 328, 652 N.E.2d 1000, 1007; State v. Beuke (1988), 38 Ohio St.3d 29, 38, 526 N.E.2d 274, 284.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

FILED JUL 24 1996
'96 JUL 24 PM 1 15
CLERK

WHEREFORE, the defendant's motion that his counsel be permitted to make reasonable examination of prospective jurors in the discretion of the Court, pursuant to R.C. 2945.27, Crim.R. 24(C), and Ohio case law, should be granted.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012


PROOF OF SERVICE

JUL 24 1996

FILED

CLERK

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 24 day of July, 1996.


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

FILED

CA96-05-0084

vs.

'96 JUL 11 PM 2 47
T. MARK BALEN
CLERK OF COURTS

STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
(Moser, J.)

LAHRAY THOMPSON

Defendant

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

CLERK OF COURTS
T. MARK BALEN

MEMORANDUM IN RESPONSE TO
DEFENDANT'S "VOIR DIRE MEMORANDUM"
RE "VENIRE PERSONS WHO CANNOT FAIRLY
CONSIDER MITIGATING EVIDENCE AND
WHO WOULD AUTOMATICALLY VOTE FOR
DEATH UPON A SHOWING OF GUILT
MUST BE EXCUSED"

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in response to the defendant's "voir dire memorandum" regarding "venire persons who cannot fairly consider mitigating evidence and who would automatically vote for death upon a showing of guilt must be excused," filed herein on April 4, 1996, says that the defendant's *initial* proposition of law, as stated in the motion's heading, is correct *in the abstract*. The State would agree with the defendant that it is the purpose of voir dire to obtain fair, unbiased jurors who will have no difficulty following the law applicable in this case, in particular the Ohio statutes involving procedure in capital cases, R.C. 2929.03-2929.04. A person who in voir dire states that he or she cannot fairly consider mitigating evidence and who would automatically vote for death upon a showing of guilt, and thus would be unable to follow the penalty-phase jury instructions, is "unsuitable" to be a juror, R.C. 2945.24(0).

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-2-

This is not to say, however, that the prosecution accepts defendant's formulation that the defense should be allowed to show bias in favor of imposing the death penalty "circumstantially," by asking prospective jurors whether they may feel that certain specific mitigating factors such as "youth," "history, character and background," would carry some, little, or no weight in a sentencing decision. In State v. Lundgren (1995), 73 Ohio St.3d 474, 481, 653 N.E.2d 304, 315, the Ohio Supreme Court rejected the defendant's assumption that jurors may be voir-dired in such a way, finding that a trial court had "exercised appropriate discretion in not allowing jurors to be asked if they would consider specifically named mitigating factors." The Court in Lundgren reasoned that

"weighing aggravating circumstances against mitigating factors is a complex process. Jurors weigh mitigating factors together, not singly, and do so collectively as a jury in the context of a penalty hearing. Realistically, jurors cannot be asked to weigh specific factors until they have heard all the evidence and been fully instructed on the applicable law. Moreover, 'evidence of an offender's history, character and background' that is not found to be mitigating 'need be given little or no weight against the aggravating circumstances.' State v. Stumpf (1987), 32 Ohio St.3d 95, 512 N.E.2d 598, paragraph two of the syllabus."

Lundgren, *id.* at 481, 653 N.E.2d at 315.

The defense motion is also premature, in that it anticipates possible responses of potential jurors that may never arise. The question must be determined with each juror on a case-by-case basis, and not in the abstract; there are many cases where jurors were alleged to be "pro-death" because of certain statements about consideration of mitigating evidence in the abstract, yet they were found to be qualified jurors who would fairly and impartially

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

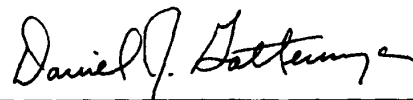
-3-

consider all the evidence and follow the instructions of law, see Lundgren, *id.* "Their inability to conjure abstract mitigating factors does not reflect an inability to to be fair and impartial jurors." Lundgren, *id.* at 483, 653 N.E.2d at 316. See also State v. Mack (1995), 73 Ohio St.3d 502, 509-510, 653 N.E.2d 329, 335-336 (trial court did not abuse its discretion by refusing to remove for cause potential jurors with initial predisposition toward imposition of death penalty, but who later stated they would follow trial instructions).

WHEREFORE, the defendant's suggestion that his counsel be permitted to ask prospective jurors if they would consider specifically named mitigating factors should be denied, and jurors's qualifications should be determined in accordance with the foregoing memorandum.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-4-

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 14th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

FILED
 STATE OF OHIO : CASE NO. CR95-12-1111
 '96 JUL 11 PM 2 49 : CA 96-05-0094
 Plaintiff : STATE OF OHIO
 T. MARK BADER : COUNTY OF BUTLER
 vs. : CLERK OF COURTS : COURT OF COMMON PLEAS
 (Moser, J.)
 LAHRAY THOMPSON
 Defendant :
 FILED In Common Pleas Court
 BUTLER COUNTY, OHIO
 JUL 11 1996
 T. MARK BADER
 CLERK OF COURTS
 MEMORANDUM IN OPPOSITION TO
 DEFENDANT'S MOTION TO PROHIBIT
 DEATH QUALIFICATION OF JURY, ETC.

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to prohibit death qualification of the jury or, in the alternative, to seat separate juries for the guilt and penalty phases of trial, filed herein on April 4, 1996, says that the defendant's arguments are not well taken.

Defendant's motion lacks merit on each of its propositions. It is clear that death-qualification of jurors is constitutionally proper, see State v. Jenkins (1984), 15 Ohio St.3d 164, 473 N.E.2d 264, paragraph two of the syllabus; see also State v. Grant (1993), 67 Ohio St.3d 465, 476, 620 N.E.2d 50, 64.

It is also clear that separate juries *cannot* be seated for the penalty and guilt phases of a capital trial in Ohio, where by statute the same trial jury which determines guilt *must* also make a recommendation of punishment. State v. Carter (1995), 72 Ohio St.3d 545, 559-560, 651 N.E.2d 965, 978, citing State v. Penix (1987), 32 Ohio St.3d 369, 372, 513 N.E.2d 744, 747-748.

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
 PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
 P.O. BOX 515
 HAMILTON, OHIO 45012

-2-

WHEREFORE, the defendant's motion should be overruled.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 11 day of July, 1996.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

FILED

2A96-05-0094

vs.

'96 JUL 11

STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
(Moser, J.)

LAHRAY THOMPSON

FILED In Common Pleas Court
BUTLER COUNTY, OHIO
JUL 11 1996
T. MARK BADEN
CLERK

Defendant

: MEMORANDUM IN OPPOSITION TO
: DEFENDANT'S MOTION TO PROHIBIT
: THE USE OF PEREMPTORY CHALLENGES
: TO EXCLUDE JURORS WHO EXPRESS
: CONCERNS ABOUT CAPITAL PUNISHMENT

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion requesting that this Court prohibit the State from excluding, through the use of peremptory challenges, any jurors who express concerns about capital punishment, filed herein on April 4, 1996, says that the defendant's argument is without merit.

"Aside from racial exclusion, prosecutors can exercise a peremptory challenge for any reason, without inquiry, and without a court's control." State v. Seiber (1990), 56 Ohio St.3d 4, 13, 564 N.E.2d 408, 419, citing State v. Esparza (1988), 39 Ohio St.3d 8, 13-14, 529 N.E.2d 192, 198 (both cases expressly rejecting the argument made by defendant herein). The Ohio Supreme Court has rejected defendant's proposition repeatedly since the Esparza and Seiber decisions, see State v. Evans (1992), 63 Ohio St.3d 231, 249, 586 N.E.2d 1042, 1057; State v. Waddy (1992), 63 Ohio St.3d 424, 451 n.11, 588 N.E.2d 819, 839; State v. Cook (1992), 65 Ohio St.3d 516, 518, 605 N.E.2d 70, 76; State v. Slagle

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-2-

(1992), 65 Ohio St.3d 597, 600, 605 N.E.2d 916, 922; and State v. Williams (1995), 73 Ohio St.3d 153, 168, 652 N.E.2d 721, 734. Federal courts facing this issue have also rejected the defense argument, see, e.g., Brown v. Dixon (CA 4, 1989), 891 F.2d 490, 496-498 (cited by the Ohio Supreme Court in Waddy), Bolder v. Armentrout (W.D.Mo. 1989), 713 F.Supp. 1558, 1576-1577, and Kordenbrock v. Scroggy (E.D.Ky. 1988), 680 F.Supp. 867, 911-912.

The limitation on peremptory challenges as set forth in Batson v. Kentucky (1986), 476 U.S. 79, would require that peremptory challenges not be used to exclude a member of a particular minority (racial or ethnic) for discriminatory purpose. Other than the limitation established in Batson, however, it is "the ordinary rule that a prosecutor may use his peremptory strikes for any reason at all." Brown v. North Carolina (1986), 479 U.S. 940 (O'Connor, J., concurring in denial of certiorari). Thus, aside from Batson, the right of peremptory challenge is entirely discretionary; a plurality of the United States Supreme Court would apparently agree that "nothing in Batson suggests that courts may examine a prosecutor's motives whenever he has excluded peremptorily those whom the court may not remove for cause." Gray v. Mississippi (1987), 481 U.S. 648, 672 (Powell, J., concurring opinion, in which three other justices concurred; see also *id.*, 481 U.S. at 679-680 (Scalia, J., dissenting opinion)).

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

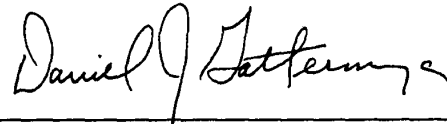
216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-3-

WHEREFORE, the defendant's motion should be overruled.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO




DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 11th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

Plaintiff

vs.

LAHRAY THOMPSON

Defendant

: : : : : : : : : : : :

FILED

JUL 11 PM 2:43

T. MARK BADEY
CLERK OF COURTS
FILED In Common Pleas Court
BUTLER COUNTY, OHIO

CASE NO. CR95-12-1111

CA96-05-0094

STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
(Moser, J.)

MEMORANDUM IN OPPOSITION TO DEFENDANT'S
MOTION TO PROHIBIT ANY REFERENCES
TO THE FIRST PHASE AS THE "GUILT PHASE"

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to prohibit any reference to the first stage of trial as the "guilt phase", filed herein on April 18, 1996, says that the defendant's motion is not well taken.

Defendant's motion is backed by neither law nor effective argument. It is implausible that reference to the first stage of a capital trial where the issue of guilt *vel non* is determined will influence the jury's verdict, see State v. Campbell (1994), 69 Ohio St.3d 38, 51, 630 N.E.2d 339, 352. The Court and parties will refer to this stage of trial as "the guilt phase," if at all, in a context of explaining in voir dire that there will be two separate parts of the trial, the first of which determines whether defendant is guilty or not guilty of aggravated murder, with or without specifications, or guilty or not guilty of any other offenses charged or any lesser included offenses.

It would be quite inaccurate to label this stage of the proceedings the "trial phase" or "evidentiary phase" inasmuch as it takes *both* phases to constitute the "trial," and evidence is to be recieved at both phases. The

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

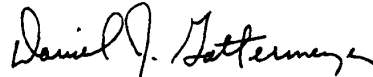
-2-

defense suggestion that this be labeled the "fact-finding" stage, aside from being unwieldy, is likewise inaccurate as the jury in determining sentence in the second stage of the proceedings will also determine whether the proffered mitigating evidence is "fact."

WHEREFORE, the defendant's motion should be overruled.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 14th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

218 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

STATE OF OHIO

vs.

COUNTY OF BUTLER

COURT OF COMMON PLEAS

(Moser, J.)

LAHRAY THOMPSON

Defendant

MEMORANDUM IN OPPOSITION TO
 DEFENDANT'S MOTION TO PROHIBIT
 DEATH QUALIFICATION UNTIL PROSECUTION
 SHOWS PROBABLE CAUSE THAT CASE
 WILL PROCEED TO MITIGATION

: : : : : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to prohibit death qualification of the jury unless and until the prosecution has shown probable cause that the case will proceed to mitigation phase, filed herein on April 4, 1996, says that defendant's argument is not well taken. While defendant's ploy is to eliminate death-qualification of jurors altogether, it is well-established that death qualification is constitutionally proper, see State v. Jenkins (1984), 15 Ohio St.3d 164, 473 N.E.2d 264, paragraph two of the syllabus; see also State v. Grant (1993), 67 Ohio St.3d 465, 476, 620 N.E.2d 50, 64. The United States Supreme Court has refused to accept the argument that the exclusion of "Witherspoon-excludables" (jurors whose opposition to capital punishment makes them unable to fairly sit as jurors and apply the law) results in an unrepresentative jury on the issue of guilt or increases the risk of conviction. Lockhart v. McCree (1986), 476 U.S. 816; see also Witherspoon v. Illinois (1968), 391 U.S. 510, 517-518, and Bumper v. North Carolina (1968), 391 U.S. 543, 545.

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
 PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
 P.O. BOX 515
 HAMILTON, OHIO 45012

-2-

Before enactment of the current death penalty statutes, the proposition that a voir dire procedure conducted pursuant to Witherspoon would result in a conviction-prone jury was rejected by the Ohio Supreme Court in State v. Carver (1972), 30 Ohio St.2d 280, 59 O.O.2d 343, 285 N.E.2d 26, where the Court reasoned that such a procedure would not have imbedded in the minds of the jurors that defendant was guilty and that they will merely be determining the penalty. *Id.* In State v. Jenkins, the Court re-examined the issue and specifically held, at paragraph two of the syllabus, "to death qualify a jury prior to the guilt phase of a bifurcated capital prosecution does not deny a capital defendant a trial by an impartial jury."

Defendant's only citation in support of his proposition was Grigsby v. Mabry (E.D.Ark. 1983), 569 F.Supp. 1273; defendant fails to note, however, that the result in Grigsby was nullified by the United States Supreme Court in Lockhart v. McCree, *supra*.

The defendant engages in the absurd assumption that the State would "secure a capital indictment for the sole purpose of enhancing the chances of conviction." (*Sic*, Defense Memorandum at page 4.) This derogates the role of the grand jury in determining probable cause for the charges set forth in the indictment, as well as personally insults the prosecutors in this case. There should rather be a presumption that the grand jurors and prosecutors competently and faithfully performed their legal and ethical duties, contrary to the defendant's assumption that they did not.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

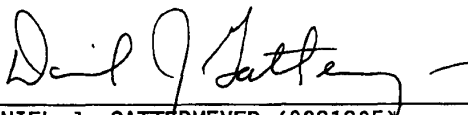
-3-

Failing in his argument to block death-qualification of the jury, defendant in the alternative seeks, in effect, a second "preliminary hearing" at which the prosecution should again establish probable cause that the defendant is guilty of aggravated murder in violation of R.C. 2903.01 with one of more R.C. 2929.04(A) specifications. This should be denied, for the reason that no such redundant procedure is provided for in the Ohio statutes or procedural rules governing capital trials, and the Court cannot create a procedure from the void, see State v. Penix (1987), 32 Ohio St.3d 369, 372-373, 513 N.E.2d 744, 747-748 (where no statutory procedure to reimpanel the trial jury for a resentencing hearing after reversal on appeal, "we may not create such a procedure out of whole cloth").

WHEREFORE, the defendant's motion should be denied.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-4-



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 14th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

: CASE NO. CR95-12-1111

Plaintiff

FILED

CA 96-05-0094

vs.

JUL 11 PM 2

STATE OF OHIO

COUNTY OF BUTLER

COURT OF COMMON PLEAS

T. MARK DAVEN (Mosen, J.)

CLERK OF COURT

LAHRAI THOMPSON

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

Defendant

JUL 11 1996

MEMORANDUM IN OPPOSITION TO
DEFENDANT'S MOTION TO STRIKE
AGGRAVATING CIRCUMSTANCEST. MARK DAVEN
CLERK

: :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to strike aggravating circumstances under R.C. 2929.04(A)(3), (7) filed herein on April 4, 1996, says that the defendant's arguments are not well taken.

Defendant's argument is nothing more than an attack on the constitutionality of the Ohio death penalty statutes. The Supreme Court of Ohio has repeatedly rejected such arguments and has held the death penalty statutes constitutional in many of the more than one hundred capital cases decided by the Court, from the detailed analysis in State v. Jenkins (1984), 15 Ohio St.3d 164, 167-179, 473 N.E.2d 264, 272-281, and at paragraph one of the syllabus, through the more recent summary dispositions of this issue in State v. Loza (1994), 71 Ohio St.3d 61, 84, 641 N.E.2d 1082, 1106, and most recently, State v. Fautenberry (1995), 72 Ohio St.3d 435, 443, 650 N.E.2d 878, 885, and State v. Carter (1995), 72 Ohio St.3d 545, 560-561, 651 N.E.2d ____.

Summary disposition of these time-worn arguments is appropriate; this Court, like the Ohio Supreme Court, should not "waste its valuable judicial

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

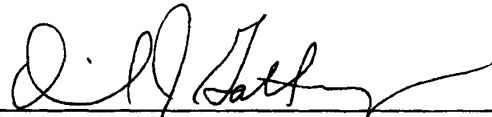
-2-

resources discussing what continues as well-settled law," State v. Lawson (1992), 64 Ohio St.3d 336, 351, 595 N.E.2d 902, 913. See also State v. Hawkins (1993), 66 Ohio St.3d 339, 342-343, 612 N.E.2d 1227, 1230; State v. Bonnell (1991), 61 Ohio St.3d 179, 181, 573 N.E.2d 1082, 1085; and State v. Poindexter (1988), 36 Ohio St.3d 1, 3-4, 520 N.E.2d 568, 571.

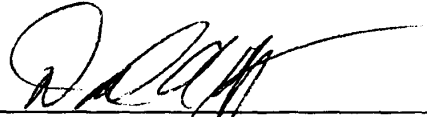
WHEREFORE, the defendant's motions should be overruled.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 11th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

CASE NO. CR95-12-1111

Plaintiff

STATE OF OHIO

COUNTY OF BUTLER

COURT OF COMMON PLEAS

(Moser, J.)

VS.

T. MARK BAKER
CLERK OF COURTS

LAHRAY THOMPSON

Defendant

MEMORANDUM IN OPPOSITION TO
DEFENDANT'S CONSTITUTIONAL
MOTION TO DISMISS

: : : : : 104 067 : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's constitutional motion to dismiss filed herein on April 18, 1996, says that the defendant's arguments are not well taken.

Defendant's argument engages in a general attack on the constitutionality of the Ohio death penalty statutes. The Supreme Court of Ohio has repeatedly rejected such arguments and has held the death penalty statutes constitutional in many of the more than one hundred capital cases decided by the Court, from the detailed analysis in State v. Jenkins (1984), 15 Ohio St.3d 164, 167-179, 473 N.E.2d 264, 272-281, and at paragraph one of the syllabus, through the more recent summary dispositions of this issue in State v. Loza (1994), 71 Ohio St.3d 61, 84, 641 N.E.2d 1082, 1106, State v. Fautenberry (1995), 72 Ohio St.3d 435, 443, 650 N.E.2d 878, 885, and State v. Carter (1995), 72 Ohio St.3d 545, 560, 651 N.E.2d 965, 979.

Summary disposition of these time-worn arguments is appropriate: this Court, like the Ohio Supreme Court, should not "waste its valuable judicial resources discussing what continues as well-settled law," State v. Lawson (1992).

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 6408

-2-

64 Ohio St.3d 336, 351, 595 N.E.2d 902, 913. See also State v. Hawkins (1993), 66 Ohio St.3d 339, 342-343, 612 N.E.2d 1227, 1230; State v. Bonnell (1991), 61 Ohio St.3d 179, 181, 573 N.E.2d 1082, 1085; and State v. Poindexter (1988), 36 Ohio St.3d 1, 3-4, 520 N.E.2d 568, 571.

WHEREFORE, the defendant's motion to dismiss should be overruled.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

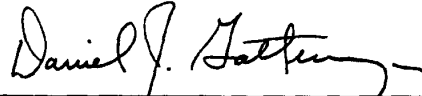
OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 14th day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

CASE NO. CR95-12-1111

Plaintiff

FILED

CA 96-05-0094

VS.

'96 JUL 11 PM 2 46

STATE OF OHIO

COUNTY OF BUTLER

COURT OF COMMON PLEAS

(Moser, J.)

T. MARK BADEL
CLERK OF COURTS

LAHRAY THOMPSON

Defendant

MEMORANDUM IN RESPONSE TO
DEFENDANT'S MOTION TO COMPEL
PROSECUTING ATTORNEY TO
DISCLOSE DEATH PENALTY DATA

FILED In Common Pleas Court
BUTLER COUNTY, OHIO
JUL 11 1996
T. MARK BADEL
CLERK

: : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in response to the defendant's motion to compel the Prosecuting Attorney to disclose death penalty data, filed herein on April 18, 1996, says as follows:

Defendant's motion is based on a faulty premise and is not well taken. First of all, the trial court does not engage in the type of proportionality review of the case at bar with other cases as contemplated by R.C. 2929.05(A), which is strictly an undertaking of the appellate and Supreme Courts. Secondly, the idea that any court (trial, appellate, or Supreme Court) will consider cases in which the death penalty was not imposed for comparative proportionality review purposes, is simply wrong. See State v. Fautenberry (1995), 72 Ohio St.3d 435, 443, 650 N.E.2d 878, 885, (rejecting the so-called "lucky ten" argument, that others in the jurisdiction of the court were similarly indicted and/or convicted of aggravated murder and aggravated robbery but failed to receive the death penalty), citing State v. Sowell (1988), 39 Ohio St.3d 322, 335, 530 N.E.2d 1294, 1308, State v. Steffen (1987), 31 Ohio St.3d 111, 123-124, 509 N.E.2d 383, 394-395, and State v. Jenkins (1984), 15 Ohio St.3d 164, 209, 473 N.E.2d 264, 304.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-2-

Moreover, defendant's request for cases in which the death penalty was not imposed, such cases are not utilized in the appellate and Supreme Court's proportionality review under R.C. 2929.05(A), see State v. Steffen, supra, at paragraph one of the syllabus.

The Prosecuting Attorney therefore responds to the defendant's request with the following answer: to the knowledge of the Prosecuting Attorney, those cases in the Twelfth Appellate District in which the death penalty has been imposed and affirmed by that court are as follows.

State v. Davis (May 27, 1986), Butler App. No. CA84-06-071, unreported, remanded for resentencing, (1988), 38 Ohio St.3d 361, sentence affirmed in State v. Davis (Oct. 29, 1990), Butler App. No. CA89-09-123, unreported, affirmed, (1992), 63 Ohio St.3d 44;
State v. Depew (June 29, 1987), Butler App. No. CA85-07-075, unreported, affirmed, (1988), 38 Ohio St.3d 275;
State v. Watson (Mar. 31, 1989), Butler App. No. CA88-01-0'4, unreported, death sentence reversed, (1991), 61 Ohio St.3d 1
State v. Lawson (June 4, 1990), Clermont App. No. CA88-05-044, unreported, affirmed, (1992), 64 Ohio St.3d 336;
State v. Williams (Nov. 2, 1992), Butler App. No. CA91-04-060, unreported, appeal now pending, Case No. 93-007;
State v. Loza (Apr. 19, 1993), Butler App. No. CA91-11-198, unreported, affirmed, (1994), 71 Ohio St.3d 61;
State v. Webb (May 24, 1993), Clermont App. No. CA91-08-053, unreported, affirmed, (1994), 70 Ohio St.3d 325; and
State v. Benge (Dec. 5, 1994), Butler App. No. CA93-06-116, unreported, appeal now pending, Case No. 95-112.

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

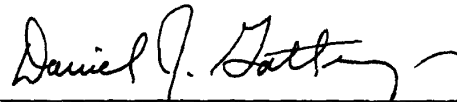
216 SOCIETY BANK BUILDING
P.O. BOX 518
HAMILTON, OHIO 45012

-3-

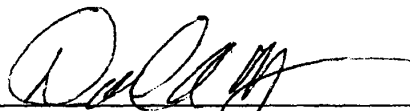
Wherefore, except as answered above, the defendant's motion should be denied.

Respectfully submitted,

JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



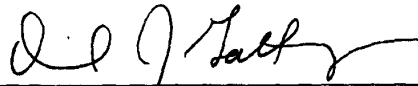
DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 1st day of July, 1996.



DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO

CASE NO. CR95-12-1111

Plaintiff

FILED

CA 96-05-0094

vs.

'86 JUL 11 PM 2 45

STATE OF OHIO

COUNTY OF BUTLER

COURT OF COMMON PLEAS

(Moser, J.)

T. MARK BADER
CLERK OF COURTS

LAHRAY THOMPSON

Defendant

MEMORANDUM IN OPPOSITION TO DEFENDANT'S
MOTION TO PROHIBIT ANY EVIDENCE
BEARING ON CHARACTER OF THE VICTIM
OR VICTIM IMPACT

: : : : : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to the defendant's motion to prohibit any evidence bearing on the character of the victims or victim impact, filed herein on April 4, 1996, says that the defendant's argument is not well taken.

Defendant's argument fails to consider the fact that the cases on which he relies, Booth v. Maryland (1987), 482 U.S. 496, and South Carolina v. Gathers (1989), 490 U.S. 805, were overruled in Payne v. Tennessee (1991), 501 U.S. 808, which held that the Eighth Amendment erects no *per se* bar to the admission of victim-impact evidence. The Ohio Supreme Court has recognized this fact in numerous cases, see, e.g., State v. Fautenberry (1995), 72 Ohio St.3d 435, 438-439, 650 N.E.2d 878, 882.

In Fautenberry, the Court held that "evidence which depicts *both* the circumstances surrounding the commission of the crime and also the impact of the murder on the victim's family may be admissible during *both* the guilt and the sentencing phases." *Id.* (Emphasis per the Court in Fautenberry.) The Court cited State v. Loza (1994), 71 Ohio St.3d 61, 82, 641 N.E.2d 1082, 1105, as an example

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

-2-

where evidence relating to victim-impact (e.g., the fact that one of the victims was pregnant) was admissible in the guilt phase of trial as facts surrounding the offense, and thus comments by the prosecutor in the sentencing phase relating to such victim-impact evidence was permissible. The Court in Fautenberry carefully pointed out that expressions of a witness's opinion as to the appropriate sentence, e.g., that the victim's family desires that defendant be sentenced to death (as allowed by statute in most non-capital cases pursuant to R.C. 2943.041) are not admissible in a capital case. Fautenberry, 72 Ohio St.3d at 439, 650 N.E.2d at 882; accord, State v. Huertas (1990), 51 Ohio St.3d 22, 553 N.E.2d 1058, syllabus. However, the Court in Fautenberry specifically allowed testimony from the victim's family members and employer concerning the impact of the victim's death on his survivors. Fautenberry, *id.* at 438-439, 650 N.E.2d at 881-882.

Defendant is correct in stating that a pertinent character trait of the victim is admissible as provided in Evid.R. 404(A)(2), which provides:

"Evidence of a pertinent trait of character of the victim of the crime offered by the accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor is admissible ***."

Thus, the admissibility of character evidence may depend on the issues raised in the case, which may make the victim's character relevant. This issue, therefore, cannot be determined as a sterile, abstract question without reference

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

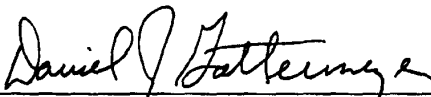
-3-


to the facts to be developed at trial.

WHEREFORE, the defendant's motion should be denied.

Respectfully submitted,

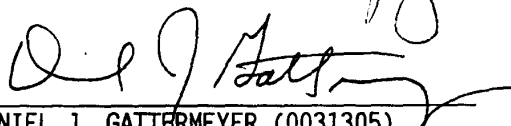
JOHN F. HOLCOMB (0001499)
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO


DANIEL A. NASTOFF (0056263)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
216 Society Bank Building
Hamilton, Ohio 45012-0515
Telephone (513) 887-3474

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum was sent to Ronald C. Morgan, 110 N. Third St. Hamilton, Ohio 45011, and Lynn Cunningham, 616 Dayton St., Hamilton, Ohio 45011 by U.S. regular mail this 11th day of July, 1996.


DANIEL J. GATTERMEYER (0031305)
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

216 SOCIETY BANK BUILDING
P.O. BOX 515
HAMILTON, OHIO 45012

1188

1 Judge on that as well with regard to some of the
2 specifications in this case. Specifically gun
3 specifications. And I'll address that again when
4 we get back there, ladies and gentlemen, those are
5 all the elements of that aggravated robbery.

6 And these are, this is part and parcel of
7 the first count of aggravated murder. Let's talk
8 about the specifications to these murder counts.

9 These are the specifications that the law
10 said must exist to make someone eligible for the
11 death penalty. In addition to finding him guilty
12 of aggravated murder, if this is true, he's
13 eligible for the death penalty. What this says is
14 that Ronald Gosser was a witness to an offense, and
15 that he was purposely killed to prevent his
16 testimony in any criminal proceeding regarding that
17 offense.

18 And that the aggravated murder of Ronald
19 Gosser was not committed during the commission,
20 attempted commission, or flight immediately after
21 the commission, or attempted commission of the
22 offense to which Ronald Gosser was a witness.
23 Okay. Break that down.

24 He was a witness to the DeAngelo
25 shooting. Okay. His murder was not -- did not

EXHIBIT

CINCINN
Fairfield: 737-0880

N

INC.
USA: (800) 569-7888

1189

1 occur during the flight, during the commission of
2 the shooting or during the flight immediately
3 thereafter. His murder occurred some 45 minutes
4 later, after they had left the area one time and
5 had returned.

6 That element of that, that part of that
7 is clearly satisfied. And that Ronald Gosser was a
8 witness to an offense. That's the heart and soul
9 of this case. It's what explains everyone's
10 actions. We know that from Lieutenant Murray, we
11 know it from Ronald Gosser himself. We know it
12 from his fiancée. We know it because of the way he
13 pleads with his killers. We know that from the way
14 he pleads with them. I'm with you, I'm with you.
15 That tells us that he's a witness and that he was
16 purposely killed to prevent his testimony in any
17 criminal proceeding regarding that offense.

18 Well, see, John Barefield didn't want to
19 say on the stand when he was being crossed that he
20 wanted to kill Ron Gosser. Was it ridiculous, was
21 it absolutely ridiculous that he would deny that?
22 He shot him in the back of the head, he didn't want
23 to kill him. After he falls to the ground,
24 shooting him six more times in the chest, and, boy,
25 never had the intent to kill the guy? Is that just

CINCINNATI STENOGRAPHIC, INC.

Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

1190

1 absolutely ridiculous? That has no weight.

2 What has weight is what you know from Ron
3 Gosser, and what you know from the other
4 eyewitnesses presented by the State in this case.
5 There is another way in this case that Lahray
6 Thompson along with his partners are eligible for
7 the death penalty, this is another specification.

8 There are a number of these laid out in
9 the law that have to be met. But the aggravated
10 murder of Ronald Gosser was committed while Lahray
11 Thompson acting with prior calculation and design
12 in the commission of the aggravated murder, Ronald
13 Gosser was committing or attempting to commit the
14 offense of aggravated robbery.

15 Okay. If you intentionally, purposely
16 kill somebody while you're committing the
17 aggravated robbery, that makes you eligible for the
18 death penalty. It's a felony murder type concept.
19 Okay. It's not simply because you're doing the
20 aggravated robbery. But you know, there are
21 inferences that you make in that area, about the
22 type of force involved, the consequences of putting
23 a gun to the back of somebody's head and
24 discharging it.

25 I mean, there are inferences you make

1191

1 about what the people were intending. Prior
2 calculation and design. It is the same prior
3 calculation and design which existed before.

4 Lahray Thompson knew why they were
5 looking for Ronald Gosser, he knew that, that
6 wasn't a mystery. It wasn't, well, let's go out
7 and find Ron Gosser because we wanted to invite him
8 to a party, it wasn't anything like that.

9 It was find the dude that talked to the
10 police. Find the guy that's ratting on us, that
11 dare tells on me. And Lahray Thompson knew that
12 that's what they were doing.

13 This is the third specification, which
14 makes it the death penalty eligible. It's that the
15 aggravated murder of Ronald Gosser was committed
16 for the purpose of escaping detection,
17 apprehension, trial or punishment for another
18 offense committed by Lahray Thompson with the
19 aggravated robbery.

20 Ladies and gentlemen, it's quite obvious
21 the intended effect of killing the fellow after you
22 robbed him, and it's going to definitely have the
23 effect of preventing his testimony, at least that's
24 what they're intending. They didn't fully have
25 that effect. They didn't know that.

CINCINNATI STENOGRAPHIC, INC.
Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

1192

1 Specification Four, that Lahray Thompson
2 had a firearm on his person or under his control
3 while committing the offense. Joyce Jones saw him
4 with the firearm. She did. Ashley Gaither didn't
5 say she saw that. She came up later, but you know,
6 under the law, on or about his person includes an
7 unarmed accomplice to an armed principal offender,
8 that's the law on a gun specification.

9 If you jointly join in the criminal
10 enterprise, and everybody knows that one has the
11 gun and that he's going to use the gun in
12 committing the offense, they're all responsible.
13 You'll see that theory is, runs throughout the
14 law. You want to discourage complicity. People
15 are less likely to be successful without help. You
16 discourage that.

17 On the final count, ladies and gentlemen
18 of the jury, is the felonious assault of Barry
19 DeAngelo. And ladies and gentlemen, this is the
20 motive count. That's basically what it is. It's
21 the motive. Okay. Butler County, Ohio, use of a
22 deadly weapon, a .22 revolver, we've got the
23 evidence of the bullets seized from the vehicle,
24 we've got the gun and we've got the ballistics
25 evidence that ties it to the shooting and to the

CINCINNATI STENOGRAPHIC, INC.

Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

1205

1 star witnesses? The star witnesses that they talk
2 to you about in their opening statement? The star
3 witnesses are Lawrence Jones. Lawrence Jones tells
4 you what he's really all about, not on the stand,
5 but in his letter that he writes to Lahray, I'm
6 going to clear your name right off the map. Blood
7 are thicker than water. You my family. That's
8 there, it's his writing. He wrote it to Lahray.

9 They aren't set to snitch, if you got no
10 choice, tell them John-John did it. Well, how does
11 he know, he wasn't there. How is he going to say
12 that? He can't say that, because he doesn't know.
13 If they ask you, tell them you weren't nowhere
14 around.

15 Well, why do you have to tell a person
16 that they weren't anywhere around if they weren't
17 anywhere around. Wouldn't they know that? Why do
18 you have to tell them that? You see, the letter
19 tells you where Lawrence Jones is coming from. You
20 notice he made a point, a real point of saying he
21 was the one wearing a checkered shirt?

22 Why does he say that, why does he offer
23 that as an important factor? John Barefield, John
24 Barefield is articulate, and a forceful speaker,
25 and he makes for real interesting drama. But do

CINCINNATI STENOGRAPHIC, INC.
Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

1206

1 you think for one second that the man who already
2 murdered one witness for trying to tell the truth,
3 that the man who has it in him to put a gun
4 directly to the back of somebody's head and murder
5 them would think twice about telling you a lie?
6 Would that be important to him? Would he care?

7 Does he have a value system that is
8 anything like, anything like yours? No. He has a
9 code he lives by, he told you about his code. He
10 wouldn't think twice about it, and you know why,
11 he's already done it.

12 He already sat in that same chair in
13 front of a jury just like you and lied. And you
14 know he wanted to just dismiss it, he just wanted
15 to be able to say I lied, I told a lot of lies and
16 have it be over with, you know, it's just not that
17 simple. He didn't just tell one lie, he told about
18 50 pages worth of lies in detail and he had added
19 some details.

20 And now he comes in this time, I'm
21 telling you the truth, because I have nothing to
22 gain and everything to lose. Well, ladies and
23 gentlemen, we know what he does when he has
24 something to lose, he lies and he advised anybody
25 else, anybody else, he said that, anybody else who

CINCINNATI STENOGRAPHIC, INC.

Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

1207

1 is facing the death penalty needs to lie, too, you
2 need to do the same thing, pardon my language, so
3 save your ass, that's his advice, get on there, get
4 your girlfriend in, get whoever in, and lie.

5 And you know, he's already won his
6 victory when he lied his way out of the death
7 penalty in this case. He's won his victory.
8 Ladies and gentlemen, we know from John Barefield
9 that, if we didn't know before, that you build an
10 alibi by lying, by getting your friends and family
11 to come in, that's important when you lie.

12 You know, it's a mockery, it's an
13 absolute mockery. A lie is nothing but a tool.
14 The truth has no independent value. A lie is a
15 tool that gets yourself out of trouble. Is this
16 Defendant above that? Is Lahray Thompson above
17 that? When he was arrested, I'm Julius, my name is
18 Julius. His name isn't Julius, is it? It's a
19 lie.

20 And he told you why he lied, because he
21 didn't want to be questioned about this offense.
22 And you know the playing thing is, in a matter of
23 seconds when he was arrested, he assembled a crowd
24 and he called to the crowd to verify that he was
25 Julius, say I'm Julius, I'm Julius.

CINCINNATI STENOGRAPHIC, INC.

Fairfield: 737-0880 Dayton: 228-6900 USA: (800) 569-7888

STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff : IN THE COURT OF COMMON PLEAS
STATE OF OHIO, BUTLER COUNTY
vs. **FILED in Common Pleas Court**
VON CLARK DAVIS **BUTLER COUNTY, OHIO** JURY WAIVER AND ELECTION OF
THREE-JUDGE PANEL
m a y 8
Defendant 1984:

EDWARD S. ROBB, JR.

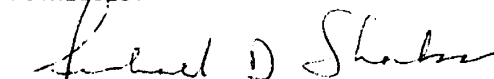
I, Von Clark Davis, defendant in the above cause, appearing in open court this 8th day of May, 1984, with my attorneys, Michael D. Shanks and John A. Garretson, do hereby voluntarily waive my right to trial by jury and elect to be tried by a court to be composed of three judges, consisting of Judges Henry J. Bruewer, William R. Stitsinger, and John R. Moser, all the same being the elected judges of the General Division of the Court of Common Pleas of Butler County who are engaged in the trial of criminal cases, pursuant to Ohio Revised Code Section 2945.06.

I am waiving said trial by jury, and making this election to be tried by a court composed of three judges, with full knowledge of my right under the Constitution of the United States and of Ohio to a trial by a jury consisting of twelve jurors, whose verdict must be unanimous; with full knowledge of the consequences of such waiver and election under the laws of the State of Ohio; and without any compulsion, undue influence, promises or inducements of any kind made to me by anyone.

I further state that I have received the advice and counsel of my attorneys, with which I am satisfied, and being fully advised by them do hereby make this waiver and election of my own free will and accord.


VON CLARK DAVIS

WITNESSES:


MICHAEL D. SHANKS
Attorney for Defendant

